THE PROS AND CONS OF INCREASED NUCLEAR SHARING WITH ALLIES

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THE PROS AND CONS OF INCREASED NUCLEAR SHARING WITH ALLIES

I. INTRODUCTION

References: A. NSC Action No. 2274-d and -e
B. Memo for NSC Planning Board, "Future NSC Agenda Items" (Item II, 16), January 11, 1960
C. NSC 5906/1, paragraph 24-c
D. NSC 5910/1, paragraph 42-a

Reference A noted the President's directive that the Secretaries of State and Defense and the Chairman, Atomic Energy Commission, jointly report to the President on the advantages and disadvantages of arrangements which would permit the President, whenever he determines it to be in the U. S. security interest to do so:

(1) Either to sell or otherwise make available nuclear weapons to selected allies; or

(2) To seek creation of multilateral arrangements to assure nuclear efficiency in NATO.

Such reports should also contain recommendations as to the nature and timing of requisite legislation.

Reference B called for preparation of a discussion paper on the pros and cons of increased nuclear sharing with allies; Reference C called for consideration of plans for the development of NATO arrangements for determining requirements for, holding custody of, and controlling the use of nuclear weapons; Reference D called for a study to determine whether and under what circumstances it might be in the U. S. security interest to enhance the nuclear weapons capability of France through the exchange

with it or provision to it as appropriate of (1) information, (2) materials, (3) nuclear weapons, under control arrangements to be determined.

The President on August 1 also requested a recommendation on the subject of nuclear submarine cooperation.

This paper is submitted by an ad hoc Committee of the Departments of State and Defense and the Atomic Energy Commission as directed by the NSC Planning Board August 19.

II. CONCLUSIONS AND RECOMMENDATIONS

A. Arrangements to permit the President to sell or otherwise to make available nuclear weapons to selected allies.

State-AEC	Defense
There is no present need for such arrangements, and the disadvantages of establishing these at this time are sufficient to recommend against any immediate action to do so.	There is a present need for arrangements whereby the President would have the flexibility to negotiate agreements to sell or otherwise provide U. S. manufactured nuclear weapons to selected allies or multilateral organizations. Legislation which would modify the Atomic Energy Act accordingly should be prepared now for submission at the opening of the next session.

NOTE: A possible amendment to the Atomic Energy Act is attached at Annex A.

B. Arrangements to permit the President to seek creation of multilateral arrangements to assure nuclear efficiency in NATO.

State-AEC

The Executive Branch should continue to study possible NATO multilateral arrangements and be prepared to consider proposals, if they should be put forward on the initiative of the European members. It should itself initiate proposals only if there appears to be a widespread desire or need for such arrangements in order to avert creation of new national capabilities. There is no need for seeking approval at this legislative session of arrangements to permit the President to seek creation of such multilateral arrangements.

Defense

While it is recognized that there is now no widespread NATO pressure for such arrangements, the United States should be prepared, nevertheless, to support and if necessary to initiate proposals for multilateral arrangements if and when such action appears to be required by the national interest.

C. Nuclear Submarine Cooperation.

State-Defense

We should immediately inform the Netherlands Government that we are prepared to negotiate an agreement on the principles agreed upon by State, Defense, and AEC and inform

AEC

We should proceed immediately to investigate the feasibility of an arrangement with the Netherlands Government which would protect Restricted Data for a two-year

State-Defense
(Continued)

the Congressional Joint Committee on Atomic Energy in the present session that we are doing so; continue to defer further consideration of the request for such cooperation from France pending resolution of other issues of cooperation with that country [and a decision on the broader subject of nuclear sharing with France]*; and for the time being continue to defer action on other such requests as those from Italy or Germany.

AEC
(Continued)

period. Thereafter, if there were a favorable determination as to feasibility, we would proceed to negotiate such an arrangement with the Netherlands Government; continue to defer further consideration of the request for such cooperation from France pending resolution of other issues of cooperation with that country; and continue to defer action on other such requests as those from Italy or Germany. The Joint Committee would be informed of this course of action during the present session of Congress.

* Defense proposal.

III. DISCUSSION

A. Advantages and Disadvantages of Increased Nuclear Sharing - General

This section endeavors to list the most important general considerations which may bear upon the question of whether the United States should increase sharing with allies in the field of nuclear weapons.

Arguments for Increased Sharing

State-AEC

1. It appears probable that at least a few other countries will eventually acquire a limited nuclear weapons capability, whether the U. S. assists them in doing so or not. The U. S. might best maintain an influence over the design, production and use of these weapons by associating itself as closely as possible with the efforts of its allies to achieve their own capability.

Defense

1. It appears inevitable that France and perhaps other major U. S. allies eventually will have national nuclear weapons capabilities. Since it appears to be impossible for the United States to prevent this proliferation, it would be in the U. S. interest to assist selected allies to achieve nuclear capabilities as efficiently and expeditiously as possible in order to increase alliance cohesion and best maintain a U. S. influence over the design, production and use of their nuclear weapons.

State-AEC
(Continued)

2. Sharing by the U. S. with its allies will improve their military strength and provide them with modern weapons and information already possessed by the potential common enemy.

Defense
(Continued)

2. Nuclear Weapons have become an integral part of the Free World arsenal. Through sharing, the United States would strengthen the NATO alliance by equipping our NATO allies with these modern weapons so that they may stand as equal partners rather than being solely dependent on the U. S. nuclear power.

State-Defense-AEC

3. Nuclear weapons in the hands of our allies would improve the strategic deployment of Free World retaliatory forces and broaden the base that the Soviets would have to neutralize to successfully launch a surprise attack.

4. Assisting selected allies to gain a nuclear capability would tend to reduce some current difficulties over stockpiling rights (i.e., in France).

5. U. S. assistance in creating nuclear capabilities in Europe would increase the confidence of European nations in their own abilities to resist Soviet pressure. This is particularly important now that the U. S. is vulnerable to nuclear attack and our allies are reappraising their positions of sole reliance on a U. S. controlled nuclear capability.

State-Defense-AEC
(Continued)

6. U. S. assistance would result in large financial savings to those of our allies who desire independent nuclear capabilities.

7. By assisting selected allies in the acquisition of nuclear capabilities, the U. S. would be working toward the creation of a climate of world opinion that would more readily accept the use of nuclear weapons.

8. A greater certainty that our allies could, if necessary, respond to a Soviet attack with their own nuclear weapons might strengthen the effect of the over-all nuclear deterrent in the Soviet eyes.

9. The increased strength and cohesion of the West resulting from nuclear sharing would enhance its negotiating position in the disarmament effort and might encourage the Soviet Union to accede to a workable agreement.

Defense

10. It does not make sense to withhold from our staunch allies technical information and weapons already possessed by our common enemy.

Arguments Against Increased Sharing

1. Present and immediately foreseeable military and political needs of U. S. allies for nuclear weapons appear to be adequately met by the present NATO stockpile plan, except in the case of France. Except for France and the U. K., none of our allies has requested assistance with respect to an independent nuclear weapons capability.

2. Increased sharing would seriously weaken the control we are now able to exert over the proliferation of nuclear weapons and design information. The dangers of this are manifold: we would lose the safeguard we now possess against nuclear weapons being used contrary to our interest; the risk of general nuclear war occurring by accident, misjudgment or premature or irresponsible action would be increased.

3. Assistance to individual nations would have to be on a selective basis. This would inevitably introduce divisive issues, especially within NATO, and create new apprehensions among the nations of the Free World.

4. A U. S. policy that resulted in the spread of independent nuclear capabilities could greatly complicate our disarmament efforts. It would not only increase the number of nations which would have to be included in negotiations, but it also might be taken by the Soviets as reason for believing or arguing that an agreement is not negotiable or not in their interests.

5. U. S. assistance or encouragement to other nations in developing independent nuclear production capabilities would result in their diverting scarce resources from meeting essential NATO force goals and developing their conventional military strength. The present arrangement whereby the U. S. is bearing almost the entire burden of providing nuclear weapons

for the alliance is of significant economic advantage to the other countries.

6. U. S. nuclear sharing with one or more of its allies would undoubtedly result in vigorous Soviet protests. Such a transfer of weapons would constitute a reversal of the position the President took in his March letter to Khrushchev that the U. S. did not contemplate any change in policy in this field. It probably would cause the Chinese Communists to step up pressure for Soviet assistance and to increase their development efforts--if this were possible. The Soviets would probably find it more difficult to resist these pressures.

7. Increased nuclear sharing would result in strong criticism of the U. S. by many Free World nations, particularly the uncommitted nations. This is a highly emotional issue and it would be difficult for the United States to counter the anticipated reaction.

8. Regarding the nuclear deterrent, the Soviets might consider (a) that the U. S. would be moved by the existence of separate national nuclear capabilities to dissociate itself from the defense of countries possessing such capabilities, and (b) that these countries would be unlikely to use nuclear weapons themselves in the face of overwhelmingly greater Soviet capabilities.

9. There is every reason to expect strong Congressional opposition to any increased sharing of U. S. nuclear weapons.

B. Arrangements to Permit the President to make U. S. Nuclear Weapons Available to Selected Allies or Regional Defense Organizations

Arrangements which would permit the President, whenever he determines it to be in the U. S. security interest to do so, either to sell or otherwise make nuclear weapons available to selected allies, or to seek creation of multilateral arrangements to assure nuclear efficiency in NATO, would give the President greater flexibility in carrying out his Executive responsibilities for the security of the United States and for its foreign relations. Should the need arise, either as a result of nuclear weapons developments, political pressures, or increasing world tensions, the President could react rapidly and selectively to meet emerging problems.

It might become desirable to transfer certain tactical nuclear weapons to the possession of those forces which would use them in battle in order to simplify deployment and dispersal problems and speed up reaction times. Should world tension increase and war with the Soviet Union appear more imminent, U. S. security interests might require the further strengthening of our allies' ability to react quickly with nuclear weapons under the control of their own forces. Or, it might appear desirable to transfer U. S. nuclear weapons to selected allies in NATO in order to satisfy desires for nuclear capabilities not subject to a U. S. veto and possible discourage the development of uneconomical national production.

On the other hand, such transfer of nuclear weapons in peacetime would remove the control which we now exercise over the spread to

additional nations of nuclear weapons and knowledge of their construction. Moreover, if the U. S. were to undertake a program of providing nuclear weapons to selected allies, there would arise the severe problem of discrimination among our allies. It would be extremely difficult to justify giving weapons to some allies whose judgment we might trust and not others considered less reliable. Furthermore, if U. S. legislation expressly authorized the transfer of U S. nuclear weapons in peacetime, it would be much more difficult for the U. S. to resist requests for weapons from other countries when the U. S. did not consider acceding to such requests to be in the national interest.

Arrangements to transfer nuclear weapons in peacetime or otherwise share their possession and control beyond those which are now being put into effect probably would require affirmative Congressional action. This might be accomplished by amendment of the Atomic Energy Act, Congressional resolution or Congressional approval of a treaty. There is little doubt that strong Congressional opposition to any request for new legislation in this respect would be encountered; and if any Congressional authorization were obtained there would be strong pressures to subject any action taken by the President to specific Congressional review and approval.

As noted, the Defense representative believes it would nevertheless be desirable to seek such authorization at the next session of Congress; whereas the State and AEC members believe that there is yet no sufficiently proven need and advantage to the United States for the Executive Branch to seek such advance authority now or in the immediate future,

and, accordingly, it would be unwise, and in fact futile, for the Executive to request such sweeping authority in this field primarily for stand-by purposes.

Should it be decided to seek amendment of the Atomic Energy Act, any proposals should be very carefully studied before being submitted to Congress. A tentative draft amendment to the Atomic Energy Act is attached at Annex A.

C. Nuclear Weapons Assistance to France.

France poses the most immediate and acute problem with respect to nuclear weapons sharing. Its refusal to accept the NATO stockpile plan and permit the deployment of U. S. nuclear weapons for any forces on French territory unless it shall have "primary" control of the weapons, together with its refusal to cooperate with NATO in other important respects, its demands for "tripartitism" in general and "equal" treatment in nuclear matters, and its determination to achieve its own independent nuclear capability at any cost, have created serious military and political weaknesses in the Western Alliance. Obviously, it would be in the United States' interest, not only to resolve these issues satisfactorily, but also to assist a Western oriented France in improving its defensive strength. Furthermore, it must be accepted as an almost certain fact that France will eventually succeed in achieving some degree of the independent nuclear capability which it seeks -- although it may reasonably be questioned how rapidly this may be achieved without U. S. assistance.

It must also be recognized that an almost inevitable consequence of France's success in this field will be a compelling incentive for other countries to follow suit -- most notably, probably, Germany which might at that time join with France in this endeavor, and the two together would probably be able to carry forward nuclear developments on which the United States would be able to exert little if any controlling influence.

STATE-AEC

One course of action now for the United States might be to accept as inescapable that France will acquire a nuclear capability and endeavor to improve its cooperation with us and with NATO, enable it to realize savings in resources, and persuade it to join with the United States in attempting to prevent the additional uncontrolled spread of nuclear capabilities by giving it assistance now with its program.

DEFENSE

It appears inevitable that France will acquire a nuclear capability regardless, whether or not it receives U. S. assistance. With this being the case there are compelling reasons for the United States to assist France now in developing this capability at the earliest date and in the most efficient and economical manner. This would be aimed at: (1) improving French cooperation with the United States and NATO; (2) furthering U. S. and Free World security interests by increasing overall French military strength; (3) realizing savings in French resources; and (4) providing tangible evidence of U. S. support for one of its staunchest allies.

It may be questioned, however, whether such assistance would in fact accomplish those objectives, although it would enhance French national strength. The French demand for nuclear parity is only a part of the French -- and in particular de Gaulle's -- determination to re-establish France as a first-class power. There is reason to doubt that any accommodation in nuclear weapons matters would ameliorate the basic

differences which make cooperation and unity of purpose among us so difficult.

At the same time, other NATO members would [might]* resent our acceding to this French demand for specially favored treatment, their own apprehensions and dissatisfaction would [might]* be increased, and they would [might]* press demands of their own, with serious consequences both to our effort to prevent the spread of nuclear weapons and to allied unity.

Furthermore, it is sometimes argued that the best solution to the problem of the need for a European nuclear capability may lie in the establishment of a NATO multilateral capability. If this should prove to be so, any assistance which might give bilaterally to France now almost certainly would [might]* make its creation more difficult.

* Defense proposes substitution.

D. Multilateral Sharing with NATO

A majority of NATO members appear satisfied with the NATO stockpile concept and the measures taken to implement it. France is the exception, because it is dissatisfied with being less than an equal partner and purports to be apprehensive that we might use our nuclear power irresponsibly or prove unwilling to use it in the event of French need. No other NATO country has expressed dissatisfaction with the stockpile concept, although individuals in several countries (West Germany, Italy, Belgium and the Netherlands) have informally advocated arrangements which would ensure a nuclear weapons capability for NATO, free from a U. S. veto. Although it is doubtful that this concern is now widespread or deep-seated among the NATO governments, it is estimated that during the next decade it might well reach such dimensions as to jeopardize the existence of NATO and/or cause countries besides France, individually or in combination, to seek to create their own nuclear capabilities. In the event the European members of NATO or a groupsof them should express their dissatisfaction with existing sharing arrangements and propose the creation of a NATO nuclear weapons capability free from a U. S. veto, the U. S. should be prepared to consider such a European initiative or to initiate a proposal if it should be judged to be in the U. S. national interest to do so.

It is doubtful that an arrangement which would meet such European concern could be established on the basis of existing Executive authority and U. S. policy (i.e., without relaxing U. S. custody or control of use of weapons). A possible approach might be to extend the joint use

formula (now in effect with the U. K.) bilaterally to the several other NATO stockpile arrangements. While this change would help to make uniform our present sharing arrangements with NATO countries, it would probably have relatively little effect since these countries already have de facto joint control by virtue of their control over delivery systems and since it would not remove the U. S. veto on control. A second approach might be a NATO-wide understanding, which might be effected by a formal commitment on our part to afford NATO the fullest possible opportunity to consult on use of NATO stockpile weapons in case of need, together perhaps with establishment of a special NATO committee to advise SACEUR in this respect. This second approach would not, however, meet the basic European concern about a U. S. veto and could raise more problems than it could solve by promoting an acrimonious debate in NATO.

Complete reassurance might be provided to the European members by formally pledging to maintain the NATO stockpile for the lifetime of the Alliance and to make weapons available to SACEUR in the event of a decision by the other members of the Alliance to request such weapons. The United States -- as well as any other potential contributors of weapons to the stockpile -- would be pledged in advance not to withdraw or withhold the weapons, even though it might retain custody until the time of release for use. We would thus relinquish the ultimate U. S. veto of use, although we would continue to maintain custody in peacetime. Such an arrangement would, of course, require that the Alliance agree upon some effective method of reaching the decision for use -- for

example, by advance authorization to SACEUR to call for the weapons in certain specified circumstances determined by the Council or by some subsidiary authority which might be established by the Council. For the United States to give this pledge and members relinquish the right of ultimate control would, however, require affirmative Congressional action, either by new legislation, resolution, or approval of a treaty, or at least a Congressional resolution would, moreover, probably be necessary to give the desired effect in Europe.

A multilateral NATO arrangement which provided an unqualified assurance of the availability of nuclear weapons for the defense of Europe might have the advantages of strengthening the will of the European members to resist Soviet pressures and to defend themselves if necessary, of strengthening the cohesion of the Alliance, and of blunting or removing the incentive to develop national nuclear capabilities. It may be questioned, however, whether it would improve the military efficiency which is made possible by the present NATO stockpile and whether the European members would, in fact, be able to agree upon a workable means of ensuring that the weapons would be available to SACEUR in case of need. Lacking such agreement, the military deterrent value might be lessened rather than increased, and the political effects upon the Alliance might be more divisive than cohesive.

Consequently, it is suggested that possibilities for a multilateral arrangement should be considered only if European support exists for it or if it should appear to be in the U. S. security interest to encourage its establishment.

E. Nuclear Submarine Sharing

Sharing with respect to nuclear submarine propulsion involves political, military and economic considerations, as well as the protection of Restricted Data in a field where the United States lead over the Soviets is believed to be considerable. Politically, there would be substantial benefits in terms of satisfaction of the desires of those allies who seek our assistance in this field, with resultant strengthening of the time between us. The United States is already committed in principle by the offer which was made at the NATO Heads of Government meeting in December, 1957, to cooperate with interested members of NATO in the development, production, and fueling of nuclear propulsion and power plants for submarines and other military purposes.

Militarily, a nuclear submarine capability would enhance the defense capabilities of certain of our allies within the NATO Alliance. It would be tangible evidence to the military forces of our allies of our determination that they be helped to obtain the most modern weapons. SACEUR and SACLANT have indicated that a Dutch and French nuclear-powered submarine capability would constitute significant increases in the military strength of the Alliance. The case might be less clear with respect to Italy, particularly if a submarine program further imparied fulfillment of MC-70 goals.

Economically, U. S. assistance would result in more efficient utilization of resources if the nations concerned are determined eventually to embark on a nuclear propulsion program.

In the case of the Netherlands, a proposal has been carefully worked out and agreed upon among State-Defense-AEC which, in addition

to the adequate security safeguards provided by the Netherlands Government, would afford the further protection of Restricted Data of a two-year deferral of any transmission of these. It is believed that we should proceed immediately to try to implement this proposal by proposing negotiation of an agreement with the Netherlands Government on this basis. In the case of France, its intransigence in NATO continues to be adequate reason for deferring further consideration of cooperation at this time. /This situation could be affected by a subsequent decision with respect to the broader subject of nuclear sharing with France./*

* Defense proposal.

ANNEX A

DRAFT LEGISLATION

(To permit a bilateral or multilateral transfer of nuclear weapons)

A Bill to Amend the Atomic Energy Act of 1954, as Amended

1. Add the following new Section 93 to the Atomic Energy Act of 1954, as amended:

"SECTION 93. Transfer of Weapons. -- The President may authorize, notwithstanding Sections 91c and 144c, the transfer of atomic weapons by sale or other appropriate terms to

(a) another nation which is participating with the United States pursuant to an international arrangement by substantial and material contributions to the mutual defense and security or to

(b) an appropriate agency of the North Atlantic Treaty Organization to assure the nuclear efficiency of NATO forces to defend against an enemy attack

pursuant to an agreement approved by the President and providing for such safeguards and conditions as the President determines are in the interest of the common defense and security."

2. Modify Section 92 to include a reference to new Section 93 so that it would read:

"SECTION 92. Prohibition. -- It shall be unlawful, except as provided in Sections 91 and 93, for any person to transfer * * * * "

Analysis of Bill

The foregoing draft legislation is in the form of a bill which would amend the Atomic Energy Act of 1954, as amended, by adding a new section in the chapter of the Act entitled "Military Applications of Atomic Energy".

This bill would give the President discretionary authority to transfer completed weapons to certain nations and to NATO as an organization. The qualifying nations would be those which at present may be considered under the Act for military assistance in the atomic energy field (i.e., those nations which are parties with the United States to a mutual defense treaty and are making substantial and material contributions to the mutual defense and security).

The draft limits authority to transfer weapons to NATO, since it is the only regional defense organization which has been seriously considered for such assistance and whose members could contribute qualified forces.

Such transfers of weapons would, of course, enable the recipients to have access to weapons information and to receive weapon parts which under the Act may be furnished only to the United Kingdom by reason of the "substantial progress" limitation in Section 91c and 144c of the Act. For that reason the draft bill would expressly indicate that the limitation in those sections would not circumscribe the President's authority under the new section.

With respect to cooperation with regional defense organizations, if there is no foreseeable need for authority to transfer to any such organization other than NATO, the desirability of general legislation to handle one specific situation is questionable. There would be advantages in that case to handling the NATO matter on its own merits by way of a specific Congressional resolution endorsing a negotiated agreement or by way of the treaty making process. Such an approach may be the only way the Executive could realistically hope to avoid having the Congress pass on the matter twice instead of once. For if we were to initiate proposals for legislation in the first instance, we must anticipate that Congress would once again insist on applying the procedure set forth in Section 123d of the Act which affords the Congress an opportunity to veto the finished product even though the negotiated agreement is consistent with the guidelines the Congress had specified in the first instance.

In that connection it will be noted that the draft bill does not volunteer to subject any resulting agreements to the procedures specified in Section 123 of the Atomic Energy Act although the element of the President's personal approval of an agreement is present in the draft just as it is in Section 123 of the Act. It seems desirable to propose a new section to cover this matter because amendment of any of the logical sections, such as Sections 91b or 91c, would appear to entail an offer to submit resulting agreement to the Section 123 procedure unless that section too were amended.

The draft also provides for a technical amendment to Section 92 so that the prohibitions of Section 92 would not be applicable to action authorized by the President under either 91 or the new section.

ANNEX B

Present U. S. Nuclear Sharing Arrangements with Allies

1. The extent of sharing with other countries now in effect is governed by United States policy and law. It is the national policy to integrate nuclear weapons with other weapons in the Armed Forces of the United States, to protect the security of Restricted Data and nuclear resources which are possessed by the United States, to make U. S. nuclear weapons available for use by qualified allies in case of need but at the same time retain custody of the weapons in peacetime and at least share control over their possible use in hostilities, to discourage the development by additional nations* of independent nuclear weapons capabilities or the acquisition of national control over nuclear weapons components by nations which do not now possess them, and to achieve effective international control of armaments including nuclear weapons. Paragraph 24(b) of NSC 5906/1 anticipates a possible need for reversing the policy of discouraging the development of independent nuclear weapons capabilities by the words:

"Whenever the President determines it is in the U. S. security interests to do so, however, the United States should enhance the nuclear weapons capability of selected allies by the exchange with them or provision to them as appropriate of (1) information; (2) materials; or (3) nuclear weapons, under arrangements for control of weapons to be determined."

2. The first Atomic Energy Act of 1946 contained provisions designed to preserve the United States monopoly on the use of nuclear energy for military purposes as long as possible; it prohibited transfer of fissionable materials and Restricted Data to other nations except by treaty or agreement requiring the approval of Congress. A 1951 amendment of the statute permitted some limited cooperation with other nations, but the Act still specifically prohibited the transmission of Restricted Data on the design and fabrication of atomic weapons. With the advance of the Soviet Union and the United Kingdom in this field, the need for some sharing which would assist certain of our allies to prepare realistic defense plans and equip themselves for the employment of or defense against nuclear weapons became evident. The Atomic Energy Act of 1954 consequently authorized the President to transmit a narrow range of classified information on planning and training of treaty allies or regional defense organizations making "substantial and material contributions to the mutual defense and security". By 1958 a still greater degree of sharing seemed necessary in the national interest, and after

* Other than the United Kingdom.

a careful review by the Executive Branch and Congress amendments to the law were enacted to permit an enlarged scope of cooperation, unless Congress objects by concurrent resolution, with such nations or organizations, on the basis of a Presidential determination before an agreement goes into effect and again when it is to be implemented, that such cooperation will promote and will not constitute an unreasonable risk to the common defense and security.

3. In determining the extent of cooperation with another nation, the amended Act differentiates between those nations which have made "substantial progress" in the atomic weapons field and all others. Only the United Kingdom has qualified under this definition and therefore only the U. S.-U. K. agreement allows the transmission of Restricted Data necessary to improve the United Kingdom's atomic weapon design, development or fabrication capability, or the transfer of non-nuclear parts of atomic weapons and special nuclear source or by-product materials for use in atomic weapons. The scope of cooperation agreements with other countries cannot exceed the transmission of information to enable training, planning, evaluating capabilities of potential enemies, the establishment of weapons compatibility with carriers, and transfer of non-nuclear parts of weapons systems exclusive of parts of atomic weapons. On the basis of the legislative history of the Act it is understood within the Executive Branch and Congress that for the present France does not qualify under the "substantial progress" rule despite its current series of tests, and the French Government has been so informed. The "substantial progress" rule does not apply to cooperation in the field of military reactors. Therefore, transfer of a military reactor, or information concerning such a reactor, may be included in an agreement for cooperation with any treaty ally qualifying under the Act.

4. The Act has been interpreted to mean that United States nuclear weapons may not be transferred to other nations in peacetime but does not preclude the President's authority to do so under his war or emergency powers. The exact circumstances which would permit the exercise of the President's authority have not been defined except in the Genie rocket proposal.

5. Eight agreements with other countries for cooperation on the uses of atomic energy for mutual defense purposes as permitted under the law have thus far been entered into and the NATO atomic weapons stockpile plan as proposed by the United States and accepted by the North Atlantic Council in December, 1957, is in process of being established. The agreements are: the agreement of 1955 with NATO; the 1957 agreement with Australia; the 1959 agreement with Canada; the 1958 agreement with the United Kingdom as amended in 1959; the 1959 agreements with Germany, the Netherlands, Greece and Turkey; and the limited 1959 agreement with France. All of these agreements with the exception of the last permit cooperation for planning and training purposes; the agreement with France permits only the sale on an unclassified basis of 440 kilograms of special nuclear material for use by France in a prototype propulsion reactor; the agreements with the United Kingdom and Canada permit

cooperation on nuclear submarine propulsion; and the agreement with the United Kingdom permits cooperation on weapons design and fabrication. A cooperation agreement with Italy was initialled in July and another with Belgium is in process of negotiations; we are considering a standard cooperation agreement with Portugal and have proposed (1) another to France to enable training of French forces in Germany or otherwise assigned to NATO and (2) revision of the 1955 NATO agreement; we have received requests from France, the Netherlands, Italy, and Germany for nuclear submarine cooperation. In addition, in order to carry out the NATO atomic weapons stockpile plan,

[redacted]

6. To enforce the prohibition against peacetime transfer of nuclear weapons or divulgence of design information, the U. S. retains custody over all weapons deployed abroad for possible use by allies until the President authorizes their release for the purpose of expenditure. The U. S. determines the measures which are necessary for this purpose, including the right of removal at will. In the case of Allied Command, Europe countries our arrangements contain provisions for custody of the weapons and for their use after release in accordance with SACEUR's plans and procedures. Custodial arrangements must be appropriate to ensure that U. S. custodial personnel are in a position to prevent actions unauthorized by the U. S. aimed at obtaining classified information on weapons design, using the weapons, or moving them from storage or launch sites, unless an act of physical force is committed against a U. S. individual. Custodial arrangements are designed to safeguard against any reasonable chance of violation but not against any conceivable contingency, such as overwhelming force on the part of the host country, although they are required to be sufficient to permit inactivation or removal of the weapon in this contingency.

[redacted]

[redacted]

8. Joint control of use arrangements are also in effect with respect to nuclear weapons deployed for the possible use of other allied forces, either by specific agreement or by virtue of the other (potential user) nation's control of its own forces. In other countries where we have weapons deployed for our own forces, we enjoy unilateral control except in the U. K. where British consent for use is required by virtue of understandings governing our use of bases there. [redacted]

9. Cooperation on nuclear submarine propulsion under the agreements with the United Kingdom and Canada appears to be progressing satisfactorily. Requests for similar cooperation have been received from France, the Netherlands, Italy and Germany. We have suspended negotiations with the French; have informed the Germans that a necessary step before we could consider their request would be for them to satisfy any obligation they might have under the WEU Treaty; are still considering the Italian request; and are trying to reach agreement in the Executive Branch on how we should respond to the Dutch request. There is undoubtedly dissatisfaction on the part of these allies that they have not yet received a favorable response, contrary to what they had been led to expect from the offer which we made at the NATO Heads of Government meeting in December, 1957 to cooperate with interested members of NATO in the development, production, and fueling of nuclear propulsion and power plants for submarines and other military purposes.* Although there never has been any doubt that U. S. policy and law would permit nuclear submarine cooperation with these four countries, certain members of Congress and of the Executive Branch have expressed doubt that such cooperation "will promote and will not constitute an unreasonable risk to the common defense and security", particularly with regard to NATO's need for additional submarines, their cost in relation to MC-70 goals and the risk of leakage of Restricted Data in a field where the U. S. retains a lead over the Soviet Union.

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* Footnote: Secretary of State Dulles, speaking for the President, said: "In one important new area we are planning to seek necessary legislative authority to permit cooperation. I refer to the atomic submarine, which has proved its tremendous capabilities over thousands of miles of operation by the Nautilus and Seawolf. If the necessary legislation is obtained, we will be able to cooperate with interested members of NATO in the development, production, and fueling of nuclear propulsion and power plants for submarines and other military purposes. This action will also greatly facilitate cooperation in the promising field of nuclear merchant-ship propulsion."

The legislative authority was provided by the 1958 amendment of the Atomic Energy Act.

ANNEX C

NATO Atomic Stockpile Plan

The NATO atomic stockpile plan was prepared pursuant to the communique issued by the North Atlantic Council after the December 1957 Heads of Government meeting in Paris which stated that the North Atlantic Council "decided to establish stocks of nuclear warheads which would be readily available for the defense of the Alliance in case of need." This decision was based upon the proposal that the United States "would deploy nuclear warheads under United States custody in accordance with NATO defensive planning and in agreement with the nations directly concerned. In the event of hostilities, nuclear warheads would be released to the appropriate NATO Supreme Allied Commander for employment by nuclear capable forces."

SACEUR and SACLANT's plans for implementation of the NATO stockpile give a good insight as to the true military value of the United States proposal, and for a basic understanding of the package, they deserve a rather detailed look. These plans formulated by the allied staffs, and distributed to the Ministers of Defense and now in the process of implementation, assume that:

1. NATO countries will have, in general, the atomic delivery units specified in the 1958 NATO Military Committee paper (MC-70).

2. The second assumption is in addition to the forces listed in MC-70, there will be Intermediate Range Ballistic Missile squadrons which will require support by the NATO Special Ammunition Storage Program.

SACEUR's concept of operations includes the following:

"1. Atomic weapons allocations for this theater are based upon stated requirements by SACEUR in support of plans for the defense of Allied Command Europe.

"2. On the basis of the SACEUR approved plans, United States CINCEUR is requested to take action to position the atomic weapons [redacted] in order that the weapons may be readily available. Weapons will be operationally assigned to commanders to support plans on the basis of missions and tasks, delivery capability and availability of weapons.

"3. When, in an emergency, appropriate authorities authorize the release of atomic weapons for use by NATO forces, [redacted] The delivery forces, after receipt of R-hour, execute SACEUR's programs and the regional plans under the direction of the NATO commander designated in each approved plan.

"4. Control of the use of atomic weapons by the forces assigned to Allied Command Europe is the responsibility of SACEUR. [redacted]

The plan focuses specific attention to the subjects of custody and security. The plan states:

"1. Custody is defined as the control of access to the atomic weapons. [redacted]

"2. Security is defined as protection against hostile elements of any nature. [redacted]

In the case of availability of weapons, each of the delivery systems is spelled out in the SHAPE document.

"(a) Surface to surface missile and atomic capable artillery for support of land forces. (Applies to Honest John and Gun types.)

(1) Atomic warheads for these missile and artillery units will normally be stored [redacted]

(2) Limited maintenance, final assembly, and check-out will be performed at support sites within Allied Command Europe.

"(b) Maritime aircraft for atomic anti-submarine warfare.

(1) Anti-submarine weapons [redacted] will be stored in the custodial storage sites until released to the delivery forces.

Portions denied are TS-FRD and thus outside of the jurisdiction of the Interagency Security Classification Appeals Panel.

(2) Maintenance and check-out of the atomic warheads normally will be performed [redacted]

"(c) Strike Squadrons

[redacted]

(2) Maintenance and check-out of the weapons normally will be performed [redacted]

"(d) Surface-to-surface missiles of the MATADOR and MACE type.

(1) Atomic warhead for a few missiles per squadron may be stored on missiles and the remaining warheads stored in the custodial storage site according to current SHAPE operating instructions. In periods of tension, the number of warheads stored on the missiles may be increased when specifically authorized by SACEUR. Prior to release for employment by the delivery unit, a United States custodian must keep the warheads under his control.

(2) Maintenance, assembly and check-out of the warheads normally will be performed in the facilities within the custodial storage sites. Maintenance beyond the capabilities of these facilities will be performed in the United States.

"(e) Intermediate Range Ballistic Missile (IRBM)

(1) Atomic warheads will be stored on missiles in conformance with standing operating procedures to be established by SACEUR. The 15 missiles included in each squadron will be located at 5 different launching sites separate from one another by as much as 10 to 25 miles. One United States custodian may be required at each launcher because of intervening distances, revetments and missile shelters. /In the case of [redacted] with which we are gaining experience in the United Kingdom, it has been determined that positive United States custodial control can be maintained with one custodian at the [redacted]

(2) Maintenance of atomic warheads and assembly into the missile nose cone will be performed within the surveillance and inspection building.

"(f) Air defense missiles of the NIKE HERCULES type.

(1) Atomic warheads will be stored on missiles in conformance with standing operating procedures to be established by SACEUR. Initially, two of the three launcher sections per battery should have missiles armed with atomic warheads. Each of the two launcher sections will have at least one United States custodian on duty at all times.

(2) Mating, check-out, and limited maintenance of the atomic warheads will be performed at the launching sites. Comprehensive maintenance of the atomic warheads will normally be performed at support sites."

SACEUR's plan outlines the following general procedures for establishing storage sites for support of Allied Command Europe atomic delivery units:

"(a) SHAPE furnishes the overall plan and operational guidance to the Major Subordinate Commanders and prepares construction criteria for the sites.

"(b) The Major Subordinate Commanders select the general locations of custodial storage sites. United States CINCEUR selects the general locations of support and depot sites.

"(c) SACEUR informs the Ministers of Defense of NATO countries of the plan and forwards construction criteria.

"(d) SHAPE includes sites in current recommended NATO common infrastructure programs.

"(e) Major Subordinate Commanders make detailed arrangements with host nations, user nations, and the United States concerning the exact location of sites, security, construction, communications, and operation of sites during peacetime, periods of alert and hostilities in accordance with the guidance provided by SHAPE. Finally,

"(f) Host nations, user nations and United States conclude separate agreements as required on training, personnel, administration and housing, logistical support and related aspects."

It is the requirement of this last step that leads to the United States bilateral agreement with the individual countries participating in the stockpile plan.

ANNEX D

Economic Considerations of Nuclear Sharing

1. The cost of military applications of nuclear energy remain a major factor of the decision of a country to undertake an independent production program. Probably only a few countries possess resources to do this. It is undoubtedly in our own interest to discourage our allies from devoting resources to nuclear developments (including, possibly, submarines or other military power applications) at the sacrifice of meeting other essential military obligations. These considerations would argue against our assisting or encouraging our allies to undertake military nuclear programs of their own.

2. The present arrangement whereby the United States is bearing almost the entire burden of providing nuclear weapons for the Alliance is of enormous economic advantage to the other countries. Were we to share this burden by some arrangement which required contributions from other countries, this advantage would be lost to them. A U. S. requirement that weapons sharing could only take place on the basis of purchases of U. S. weapons would probably effectively deter the majority of allies from equipping themselves with nuclear weapons at least at the present time. Were we to continue to bear this burden regardless of whatever modified control arrangements might be made, our allies would, of course, continue to enjoy this benefit.

ANNEX E

Scientific and Production Considerations of Nuclear Sharing

In theory, increased sharing within the alliance would facilitate better utilization of available scientific manpower, technical facilities and other resources. U. S. assistance to a nation determined to achieve a nuclear capability would free resources. U. S. assistance to a nation determined to achieve a nuclear capability would free resources for other work. This development, however, is not inevitable. For example the U. K., which has the option of obtaining nuclear weapon parts from the U. S., has until now preferred to devote most of its scientific and technical manpower in this field to re-fashioning U. S. weapon designs into its own designs to be produced in its own facilities. On the other hand, increased sharing can be burden on U. S. scientific manpower in that the amount of time consumed in answering the inquiries of the nation with which sharing takes place can become so large as to prejudice research on the development of U. S. technology. For example, U. S. sharing with several more nations on the same basis and scale as our present cooperation with the U. K. would seriously interfere with the work of key U. S. scientists on their own programs.

Any significant increase in nuclear sharing would also have an impact on the U. S. atomic industry. In view of existing productive capacity for U-235, weapons parts and weapons, a significant number of these items could be made available for sharing without constructing new facilities or straining existing facilities. If, however, we are to maintain the present and projected stockpile of weapons using plutonium and tritium, the U. S. would have to consider building new reactors or obtain these materials from foreign reactors before increased sharing could take place.

ANNEX F

Anticipated Trend of Development of Nuclear Capabilities

An over-all consideration which cuts across military, political and economic factors, is the fact that for political and technological reasons there may be an almost inevitable pressure for the acquisition of at least some additional nuclear capabilities. As the distinction between nuclear and non-nuclear weapons diminishes, acquisition of the former will probably become increasingly an objective of national policies. The case of France has been noted, and the possible impact on Germany and elsewhere of success on the part of France particularly, if France had received U. S. aid. If a fourth power does achieve a nuclear capability which is militarily effective in the eyes of the alliance, then it is almost certain that at least some others will wish to embark on the same course. From the technical standpoint the spread of atomic knowledge among the international scientific community has had the effect of reducing the amount of research and development required by any technologically advanced nation to produce a workable atomic weapon. This amount may be expected to continue to decrease. Furthermore, the task of a nation attempting to achieve an independent nuclear capability might be facilitated by new methods of producing atomic materials. New techniques, which are not yet feasible, might greatly reduce the cost and the size of facilities required for producing weapon-grade nuclear materials. Knowledge of these possible techniques is not a monopoly of any one nation. On the other hand, the cost and difficulty of producing an effective strategic delivery system has been greatly increasing while improvements in air defense tend to make aircraft delivery systems increasingly less effective. This complicated, expensive effort may well pose greater obstacles to the creation of national nuclear capabilities than do the cost and problems of nuclear weapon production.

The effect of these technological trends will vary according to the purposes which move countries to wish to secure nuclear weapons and to the means available for fulfilling these purposes. If a nation wishes to have only nuclear weapons available under U. S. custody in an emergency, it now has that opportunity through the stockpile concept. If a nation wishes a capability the U. S. cannot veto, it can initiate a national program, even if this course of action is expensive, slow and does not result in the procurement of the most efficient weapons or the means to deliver them. These disadvantages, however, might be so great as to induce the nation to participate in some sort of multilateral organization in which the U. S. does not exercise a veto.