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STATE DEPARTMENT ROLE IN ATOMIC WEAPON STOCKPILE  
CUSTODIAL ARRANGEMENTS

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Pursuant to the NATO Heads of Government decision in December, 1957 to establish under U. S. control stocks of nuclear weapons for NATO forces, bilateral intergovernmental stockpile agreements are being negotiated and concluded through diplomatic channels with each NATO member having NATO nuclear capable forces.

These agreements, however, neither expressly define nor imply how U. S. control is to be effected. A typical provision states:

"The custody of any stocks of atomic weapons provided by the United States will be the responsibility of the United States and personnel will be assigned in the Federal Republic of Germany for this purpose."

Furthermore, these agreements do not commit the United States to turn the weapons over to allied forces at any specific time. Thus, the relevant provision in these agreements merely indicates the possibility of release at some time in this language:

"When the weapons are released by appropriate authority, they will be employed in accordance with procedures established by SACEUR."

has not

Since that kind of stockpile agreement/impaird the right of the United States to utilize the "igloo" custodial system or any other procedure consistent with U. S. law, we have not conditioned conclusion of such agreements upon having Defense present us with the details of the custodial techniques envisaged. Nevertheless, when some other kind of proposed stockpile agreement has expressly or inferentially indicated a significant change in either custody or control, we have insisted on examining the details of what Defense has in mind.

That was the case, for example, with respect to the proposed Genie arrangement and it is also presently the case with respect to a new "umbrella" model we are developing which could embrace so-called floating stockpiles--i.e., stocks of weapons on a foreign warship rather than at a land base.

In view of (1) the Genie discussions with the Joint Committee, during which the Committee questioned State Department representatives on custody and control matters (2) some publicity over the Thor arrangements with the U. K., and (3) a subsequent exchange of aides-memoire with the Soviets in which we assured them that the U. S. maintained "exclusive custody" of the weapons stockpiled in support of NATO forces, we decided to ask Defense for copies of the "technical" custodial arrangements the U. S. military had with their NATO ally counterparts. Defense had never volunteered this information or <sup>in</sup> any way indicated it regarded this an area of State responsibility or concern.

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Since it appeared likely that the Joint Committee would pursue this custody matter intensively and would probably be questioning Department representatives on the matter, we attempted to have Department representatives visit typical sites in the NATO area last summer. A man from EUR went, in order to play down the S/AE and L aspects, but got only as far as Paris because Gen. Norstad (SACEUR/US CINCEUR) objected to a unilateral U. S. inspection of NATO bases.

Since it was thought that trip may have been objected to because of its precipitate nature, plans were subsequently developed with Defense for such a tour by a few representatives from both State and Defense.

All the while we had impressed upon Defense our desire for details on the custodial arrangements.

Late last year Defense sent us a copy of USCINCEUR's general regulations he had already issued to U. S. Commanders with custodial responsibilities. While giving us some new general information, this book did not present a detailed picture of the type set forth in the Joint Committee report.

Finally, on January 30, 1961, Defense sent us copies of the agreements with its NATO counterparts on the technical details of custody, along with other documents indicating existing custodial practices. One of these was a Defense letter last September to the Joint Committee informing it of a significant change in procedures at the Thor sites in the U. K.

Now that a number of the members of the Joint Committee, including the Chairman and Vice Chairman have first-hand knowledge of actual practices at the deployment sites, it is quite likely State Department representatives will be questioned on what they think of: the domestic legality and general effectiveness of custodial control arrangements; whether the Department has endorsed them from either standpoint; and whether, in effect, the Department regards itself as having any "civilian control" responsibility in this area.

The fact is that until very recently Defense had not furnished us with any details so we had not previously endorsed any of these actual arrangements which have caught the Joint Committee's attention.

Moreover, Defense has just written the Department that it believes "there is no disagreement that responsibility for implementing arrangements for custody and control of atomic weapons in overseas areas is that of the Unified Commanders through the Department of Defense Chain of Command."

Letter from Gen. Loper to Mr. Farley, dated February 17, 1961. The letter accordingly, suggests reconsidering the proposed joint field trip in view of "Gen. Norstad's concern and in view of the material recently furnished the State Department on the subject . . . ."

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The letter also encloses a copy of a recent personal message to Gen. Loper from Gen. Norstad on this subject. The message, however, does not take a stand against State review or "inspection". It indicates that Gen. Norstad sees the need for a basic decision on whether such action is necessary and, if so, by whom and how it should be performed.

Gen. Norstad, therefore, recommended that Defense initiate action to establish an appropriate governmental policy on this problem.

In context, therefore, Gen. Loper's letter seems to be such an initiative, proposing that the State Department agree that it has no responsibility for the actual procedures in effect at stockpile sites. It is not clear from the letter whether Defense is proposing more than that.

The precise role of the Department in these matters is still open for resolution. It would be highly desirable to have a position in time for the JCAE hearing, Wednesday, March 1, 1961.

The Department can elect to follow one of three basic courses. These are:

1. Step out of the picture after the basic governmental agreement is concluded and not assert any responsibility for actual custody and control arrangements;
2. Insist on seeing any contractual type instrument dealing with custody matters so that we can assure ourselves that we have no legal commitments, at any level, which would preclude the U. S. from taking whatever steps are necessary to comply with U. S. law and policy; or
3. Exercise general supervision of the program to the point of periodically visiting sample installations to satisfy ourselves that the custody and control procedure are legitimate and effective.

Alternative 2 in the last analysis is only a variant of 1 since:

A. Its purpose is the same--i.e., assure the absence of any commitments on this matter, an object which could be achieved simply by requiring the military to exclude from the technical agreements language on the matter of what practices the U. S. will follow; and

B. The actual techniques have become so sophisticated with respect to "mated" weapon systems that, once the concept of mating is accepted as legitimate, it is virtually impossible to make an intelligent decision on the propriety of a particular arrangement without seeing the actual setup.

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The choice for the Department, therefore, is whether or not to accept a civilian control responsibility. Only under an alternative 3 approach could the Department exercise genuine civilian control. Unless we work out suitable procedures with Defense to visit installations periodically it is unwise to assume there would be no erosion of the guidelines. We must expect continual military pressure for more and more refinements to improve constantly the state of operational readiness.

There are considerations in favor of State assuming that responsibility. First, Presidents have consistently looked to the Secretary of State to keep on top of atomic weapon matters involving activities outside the United States. Second, the non-proliferation of independent atomic weapon capabilities is such a delicate element of our foreign policy, that we should be in a position to assure other nations that there is within the Executive genuine civilian surveillance of our NATO stockpile program. Finally, as the one fully civilian agency left in the picture, the Congress and the people may not understand or appreciate an unwillingness to oversee the military in this respect.

It is, therefore, difficult to see how the Department could forego the alternative 3 responsibility.

Accordingly, in view of the importance of the subject matter and anticipated adverse Defense reaction, we should raise the matter with the President and propose that State be assigned a civilian control responsibility.

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