

memorandum

DATE: September 8, 1987

REPLY TO
ATTN OF: GC-31

SUBJECT: Project Indalo - request for a legal opinion

TO: Edward J. Vallario, EH-331

THRU: John M. Edsall *JME*
Assistant General Counsel
for Nuclear Affairs, GC-31

Our files reveal no documents on which to base a legal opinion in regard to U.S. or DOE legal obligations resulting from the aircraft collision over Palomares, Spain.

The letters provided with your August 19, 1987 request appear to constitute a voluntary offer of cooperation from the U.S. which was accepted by Spain. In international law, a voluntary offer accepted by another party can indeed result in legal obligations - depending on a number of circumstances. To be definitive more documentation is needed.

As the "Hall - Otero Agreement" appears to be a direct result of a very serious aircraft accident between two USAF aircraft that caused significant contamination of some Spanish territory, it would seem extremely inadvisable to unilaterally terminate our payments (even in the event that we could do so legally) without consultation with the State Department, the USAF, and Spain.

Charles R. Oleszycki

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