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DEPARTMENT OF STATE

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FLIGHTS OF BELLIGERENT MILITARY AIRCRAFT

Since the enactment of the Neutrality Act of 1939, the Department has received frequent inquiries as to whether authorization could be obtained to make fly-away deliveries of military aircraft purchased by belligerent countries. The following statement is issued with a view to clarifying the position being taken by the Department on this question:

Section 6(a) of the Air Commerce Act of 1926, as amended, contains the following provisions: "Aircraft a part of the armed forces of any foreign nation shall not be navigated in the United States, including the Canal Zone, except in accordance with an authorization granted by the Secretary of State". The authorization referred to in this provision of law is not being granted for military aircraft purchased by belligerents since it would appear to be inconsistent with the neutral obligations of the United States to permit such aircraft to be flown within or from the territory of the United States. For the foregoing purposes, the following will be treated as military aircraft:

(1) All aircraft in Category III of the President's Proclamation of May 1, 1937, and

(2) Aircraft in Category V of the President's Proclamation of May 1, 1937, purchased by or destined for the armed forces of a foreign nation.

It should be pointed out that the above is not applicable while the legal title to the aircraft in question remains with a citizen of the United States.
