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2 UNITED STATES OF AMERICA  
3 NUCLEAR REGULATORY COMMISSION

4 BRIEFING BY EXECUTIVE BRANCH ON  
5 INTERNATIONAL SAFEGUARDS

6 (Closed to Public Attendance)

7 Chairman's Conference Room  
8 1717 H Street, N.W.  
9 Washington, D. C.

10 Tuesday, July 10, 1979

11 The Commission met, pursuant to notice, at 9:35 a.m.,  
12 Joseph Hendrie, Chairman of the Commission, presiding.

13 PRESENT:

14 Chairman Hendrie  
15 Commissioner Gilinsky  
16 Commissioner Kennedy  
17 Commissioner Bradford  
18 Commissioner Ahearne

19 ALSO PRESENT:

20 J. Boright, DOS  
21 G. Helfrich, DOS  
22 L. Nosenzo, DOS  
23 T. Pickering, DOS  
24 J. Meizel, ACDA  
25 H. Bengelsdorf, DOE  
J. Ebetino, DOE  
R. Liimatainen, DOS

NRC: J. Becker, R. Burnett, K. Cohen, J. Devine  
W. Dircks, G. Eysymontt, T. Gibbon, V. Harding  
D. Hassell, M. Peterson, I. Rothschild, J. Shea,  
T. Sherr, J. Stephens.

(NOTE: This transcript was produced from a tape  
recording, July 24, 1979.)

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P R O C E E D I N G S

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2 CHAIRMAN HENDRIE: I have now started the tape  
3 machine.

4 This is a meeting of the Commission, a briefing by  
5 the Executive Branch on International Safeguards. It is a  
6 closed meeting of the Commission, and the classification level,  
7 so far as I know is Confidential.

8 Is that adequate, Tom?

9 MR. PICKERING: I think, at this point, Joe, that would  
10 be adequate. We would like to signal if it becomes inadequate.

11 CHAIRMAN HENDRIE: Yes, please. People keep in mind  
12 if the classification level should go up, stop and say so before  
13 you get some material on the record beyond the Confidential level.

14 I guess our purpose here is to provide us all an  
15 opportunity to discuss what NRC conceives to be its information  
16 needs with regard to IAEA safeguards as they relate to U.S.  
17 exports, and in particular, matters in countries, specific  
18 information, and in general, unresolved items associated with  
19 the proposed format for Executive Branch analysis, which we have  
20 been creating a certain amount of discussion on over the last  
21 weeks.

22 Jim, if I stop there, can you provide us with the  
23 balance of any preface that we need.

24 MR. SHEA: Right, if I might just say a little bit  
25 about the scope here today.

I believe we want to focus primarily on the question

1 of safeguards information needs, and the exchange of letters  
2 that you had with Tom. If possible, I think it might be  
3 desirable to talk a little bit about the question of technical  
4 economic justifications for high-enriched uranium and plutonium  
5 exports, although I think we have made a good deal of progress  
6 in talking to Lou on that issue and on the other items in the  
7 format, in a meeting we had yesterday, which if time permits  
8 I think we can discuss these at the end, the proposed approach  
9 that State had on that and where we stand in relation to the  
10 format.

11 I think basically, we should focus on safeguards and  
12 cover that as far as you can and let the others fill in at the  
13 end.

14 CHAIRMAN HENDRIE: Okay. Tom.

15 MR. PICKERING: Thank you, Joe.

16 I would just like to say we appreciate the opportunity  
17 to come back and talk to you further about this question. I hope  
18 that as a result of this discussion, we might all end up, both  
19 on our side and your side, with a clear sense of what are the  
20 pieces of information which are prepared and exchanged or  
21 provided to you, and what are the limitations and our capacity  
22 to acquire information.

23 I want to address first, what we provide you, the answer  
24 to which is essentially very simple. It is encompassed in  
25 the one word, "all". Then talk to you about our limitations  
on the acquisition of information, which I think has some

1 concerns both on our part and your part that we need to clarify  
2 and get out on the table.

3           Finally, talk to you a little bit about how we see  
4 the statute and its relationship to information in terms of  
5 the jobs both of us have to do with respect to foreign licensing.

6           Jim mentioned, and I should say initially, the question  
7 of economic and technical data in connection with the highly-  
8 enriched uranium shipments. We are prepared to address that.

9           I should say as a matter of introduction that my  
10 expertise in the area of safeguards is a great deal more  
11 superficial than my expertise in other areas, which, in this  
12 particular range of activity is also superficial. I brought  
13 Lou and John, and Hal Bengelsdorf from the DOE, together with  
14 Jorge Menzel from ACDA to handle the indepth questions, which  
15 I know you are going to want to get into which will go far  
16 beyond my own competence. I expect probably to learn a great  
17 deal more in the next hour or so than I can impart.

18           Nevertheless, I have put down some initial ideas and  
19 want to run over those with you as a way of introduction, and  
20 perhaps we can move from there, if you want, to specific  
21 questions that we have.

22           The first question that I think we should address  
23 is the issue of provision of information to the NRC by the  
24 State Department and the Executive Branch. As I indicated in  
25 my opening remarks, I frankly, don't think we have an issue

1 here, but we have been advised through staff that there is still  
2 some uncertainty in the Commission.

3 As I stated in my letter to Joe, quote: "... all of  
4 the information obtained through these various routes is  
5 available to the NRC," unquote. I want to make it clear  
6 that the NRC ought to have, in our mind, and does have access  
7 to all information. I want to catalogue for you what we mean  
8 by "all information," because I think we ought to put, clearly  
9 on record, what it is that we conclude is the corpus of  
10 information from which we derive the word "all".

11 First, we would put confidential briefings such as  
12 this one and discussions with the Executive Branch, and all  
13 matters of interest to the NRC, and I repeat again, we are  
14 always prepared to come and discuss with you, either at your  
15 initiative or if there are issues, I would feel that it would  
16 be proper in my case to take my own initiative to come to you.

17 Secondly, the SIR and the analyses that we have made  
18 of it or that have been made of it in the Executive Branch.

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We certainly, , want to make available to you, the relevant Executive Branch instructions, policy papers, analyses and summaries. These are often contained in the cables, and therefore, we routinely and regularly distribute those to you.

Full participation in the NRC staff in the action plan, which we have worked out, and together, we have worked with the IAEA in which the staff participates.

Finally, the access that you all have directly to senior IAEA officials, Gr<sup>e</sup>mm and Ecklund, for example, both available to you and to the NRC staff in Vienna and Washington.

Now, there is only one further caveat which comes to mind that I should mention with respect to detailed information.

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I also want to say, as I have said before up here, that our proposal is to work with the NRC in a program to improve the state systems of accounting and control in this particular area.

Now let me, if I can for a minute, address the question, which I think is important, and I hope it would be of value to you, to have an understanding on this, what we consider to be the limitations on the availability of information. This basically extends from the nature of the safeguards system itself.

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The principal element of safeguards, as we see it, is the general respect for the confidentiality of information which is obtained by the IAEA. This is true on grounds of proprietary, as well as other concerns of the inspected state.

We are committed to this, as you well know, through our Board and agency memberships, as well as a party to the safeguards agreements. It was interesting, just as a sidelight, in my discussions with John Glenn on the voluntary offer, a couple of weeks ago on the Hill <sup>on t</sup> <sub>AA</sub> the issue: "How are we going to protect the proprietary information given by U.S. firms in the IAEA system," <sup>me</sup> ~~we~~ had to make the case, as I believe we should make the case, that it is a system based on confidentiality. Confidentiality, in our judgment, has to cut both ways.



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The U.S. has had a very good working relationship with the IAEA, and on a large part, this is because we have taken a very supportive position with the agency. I would like to mention here the technical programs that we have worked out to assist the agency and our recognized serious interest as a country in the objective of non-proliferation; to say nothing, obviously, <sup>of</sup> with the great impetus we gave originally at the beginning of the agency.

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We can, however, work on the problems indicated in the

1 SIR. We believe that this is a common objective that we both  
2 share, and one that we should continue to move ahead on.

3 The basic approach of the IAEA, as you know, is that  
4 it applies a general uniform set of safeguards which treats  
5 similar plants in different countries on a similar basis, or  
6 on a common basis.

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14 There is, as you know, generic information available.  
15 This comes to you in the form, through the SIR, of such things  
16 as how the IAEA is going to approach safeguards on LWRs as a  
17 matter of general interest.

18 Country-specific information on a comprehensive basis  
19 is not available, and we don't believe necessarily it would be  
20 useful in improvement of safeguards. The SIR is a better  
21 overview and an indication of how the type of export will be  
22 covered, rather than a country-specific indication of past  
23 practices.  
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1           Now, let me briefly address what is basically, at  
2 this point, a theological question, but one, nevertheless, I  
3 think is on your mind, and therefore, we probably should come  
4 to grips with.

5           Let me say, in beginning the preface to the addressing  
6 of the theological issue that it is theological in my  
7 judgment, because at the moment, within the constraints of what  
8 we can obtain you do receive all information. I have no  
9 hesitancy in saying it. Therefore, it may apply more to the  
10 theology within the constraints of information, what more should  
11 be attempted to be acquired, rather than anything else.

12           However, in that context let me just state that as  
13 we tried to make clear in the letter of last December, we are  
14 concerned and we would like the Commission to be careful to  
15 distinguish between three principal factors with respect to  
16 information.

17           One, information required to determine whether  
18 specific export criteria are satisfied in the main things  
19 that appear in Section 127.

20           Information of importance in making the further  
21 judgment under the Nuclear Nonproliferation Act that an  
22 export will not be inimical to the common defense and security.

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4 Finally, the third point, information which the  
5 Commission believes desirable as background in examining  
6 particular export cases.

7 Now, specifically we believe that Section 127(1),  
8 which states that, quote: "IAEA safeguards, as required by  
9 Article 23 of the Treaty will be applied..." unquote, does  
10 not require a judgment, in our feeling, as to the adequacy of  
11 safeguards.

12 In our view, this requires an appropriate safeguards  
13 agreement with the IAEA, and that IAEA safeguards are being  
14 applied, including on-site inspections, access, sampling,  
15 measurements on which to arrive at conclusions regarding the  
16 diversion or misuse of nuclear material or equipment. Those  
17 sorts of things.

18 By contrast, under Criterion 3 the Congress  
19 specifically provided that such a determination be made with  
20 respect to physical security by indicating, quote: "... adequate  
21 physical security measures will be maintained..." unquote;  
22 and secondly, that the Commission issue regulations to  
23 establish appropriate levels of protection to provide a basis  
24 for the determination of adequacy.

25 Finally, the Executive Branch believes that the

1 adequacy of safeguards probably falls into the second ---

2 COMMISSIONER KENNEDY: Tom, could I interrupt there?

3 MR. PICKERING: Yes.

4 COMMISSIONER KENNEDY: Those are the views of your  
5 Counsel as well, I assume?

6 MR. PICKERING: We have consulted with our lawyer on  
7 this, is that right?

8 MR. NOSENZO: Yes.

9 COMMISSIONER KENNEDY: I just wanted to be sure, and  
10 that they reflect his judgments as to the legislative history.

11 MR. NOSENZO: That's right.

12 MR. PICKERING: Finally, the Executive Branch  
13 believes that the adequacy of safeguards probably falls into  
14 the second category, that is, information which should be  
15 considered along with other pertinent information concerning  
16 a country's non-proliferation credentials in making the overall  
17 inimicality determination. That is related more to the  
18 special cases where inimicality might become a serious question  
19 rather than to the large number of routine questions where the  
20 inimicality question can probably be answered by the enumerated  
21 criteria of Section 127.

22 Now, that's a theological view. I think it might be  
23 useful if you want to talk further about it, but I would just  
24 urge that as we talk further about it, we talk about it against  
25 the backdrop that we have tried to make clear in our first

1 initial point that the information which is available to us  
2 is also available to you, and we work hard to try to make it  
3 available to you.  
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12 That, Joe, is an overview. I recognize that doesn't  
13 answer all questions, but I hope it provides enough of a  
14 beginning point and food for thought to carry forward with your  
15 own concerns.

16 CHAIRMAN HENDRIE: Let me see if other Commissioners  
17 who haven't had a chance to comment have any questions.

18 Vic?

19 COMMISSIONER GILINSKY: Yes. You referred to this  
20 question as to what the safeguards information applies to, with  
21 part of our responsibilities as a theological question, but you  
22 made a pretty strong point of it in your letter.

23 I must say that I am a little troubled about you  
24 interpreting our responsibilities for us, but I would like to  
25 clarify, just to get it clear, just exactly what it is you are



1 saying. Are you saying that there is no information about the  
2 safeguards that is relevant to the determination in Criterion 1?

3 MR. PICKERING: We are saying basically that the  
4 existence of a safeguards regime and the carrying out of  
5 inspections is relevant. Those kinds of information. Let  
6 me just give you the point here.

7 In our view, this requires an appropriate safeguards  
8 agreement with the IAEA, and that IAEA safeguards are being  
9 applied, which includes on-site inspections, access, sampling,  
10 measurements and so forth.

11 COMMISSIONER GILINSKY: How do we know that they are  
12 being applied?

13 Let me put it this way: Is it fair to ask, in your  
14 view, whether the IAEA is meeting its own standards here?

15 MR. PICKERING: Yes, I believe it is.

16 COMMISSIONER GILINSKY: Well, it seems to me, at that  
17 point, you have to begin to ~~ask~~, watching the inspection<sup>a</sup>, pretty  
18 closely and so on. I mean, that gets you right into the  
19 details, ~~of~~ even if you don't reach the question of whether  
20 those standards are themselves adequate compared to something  
21 else. These are matters that are not ~~that~~ covered by the  
22 confidentiality of the IAEA.

23 I'm not suggesting that there is an easy answer to  
24 this, but, in fact, just the opposite. I don't think there  
25 is any way of evading the questions<sup>/</sup> of just what is the IAEA up

1 to, <sup>e</sup> Even if one doesn't reach the question of: <sup>are</sup> "Is their  
2 standards, in fact, adequate?" So I think it is highly  
3 relevant in the usual exports.

4 MR. PICKERING: Let me just make a statement, Vic, that  
5 I don't think there is an issue of whether adequacy of safeguards  
6 is relevant to the exports or not. I think we all agree that  
7 the adequacy of safeguards is an important element. I think  
8 the discussion that we are having was, in the determination of  
9 meeting Criteria <sup>on</sup> 1 is adequate -- Is that where you take  
10 adequacy into consideration, or do you take adequacy into  
11 consideration more broadly in terms of the inimicality of the  
12 situation?

13 Our reading of it is that what the Criteria <sup>on</sup> 1 gets  
14 at and is legally, and the legislative history supports that, is  
15 whether there is a safeguards agreement there, whether the IAEA  
16 is, in fact, implementing safeguards.

17 COMMISSIONER GILINSKY: Up to its own standards?

18 MR. PICKERING: No. Without recourse to the  
19 standards, but rather, are they implementing safeguards as they  
20 generally do throughout the world.

21 COMMISSIONER GILINSKY: How do you know that?

22 MR. PICKERING: We have, for example, queried them  
23 at your request, and we are doing it -- now they have included  
24 in the SIR, an indication, first of all, where there are  
25 facility attachments to indicate that there are procedures for

1 implementing those safeguards. Where the facility attachments  
2 are not in place, we have gotten assurances from the IAEA  
3 that they will apply them in an ad hoc <sup>way</sup> such that they can  
4 have reasonable assurance. ---

5 COMMISSIONER GILINSKY: You see, I'm not about to say  
6 the detailed investigation of the actual performance in the IAEA  
7 is required in every case to meet the requirements of the law  
8 here, but I am pretty firm in the view that information about  
9 the performance of the IAEA is not irrelevant to your finding  
10 in Criterion <sup>or</sup> 1. Should you have information that says that  
11 they are not doing what they are supposed to be doing, I think  
12 that's highly relevant.

13 Now, there is a certain presumption here that the  
14 system is applied in the way that we expect it to be applied,  
15 but that doesn't mean that if we have information suggesting  
16 otherwise, <sup>r</sup> that it doesn't affect the judgment on that criterion,  
17 or that in certain circumstances one may want to assure one's  
18 self that is, in fact, true.

19 MR. PICKERING: Nor does it suggest that if we  
20 have information otherwise, you don't have it.

21 COMMISSIONER GILINSKY: Well ---

22 MR. PICKERING: Or that that's going to be withheld,  
23 if you want to put it that way.

24 COMMISSIONER GILINSKY: Okay, well, that's the way I  
25 take your remarks, but what then do you mean when you say, "In

1 that light we believe that it is clear that Section 127(1) and  
2 so on, does not require a judgment of the adequacy of IAEA  
3 safeguards?"

4 MR. PICKERING: We believe that the question of  
5 country-specific adequacy is related more to a finding of  
6 inimicality than it is to a finding of Criterion 1 that  
7 safeguards are applied.

8 COMMISSIONER KENNEDY: Having said that, Tom, can  
9 you describe what you mean and how you see it applying in the  
10 context of inimicality? How is it done? Who does it?  
11 What does it comprise?

12 MR. PICKERING: I would say that as <sup>to</sup> questions of  
13 inimicality, let's look at a more specific issue.

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1 Is that relevant? I think that that's the sort of  
2 distinction we want to make here.

3 COMMISSIONER GILINSKY: I guess I'm still not clear.

4 From what Lou says -- this is just a little box and  
5 you check it if there is an agreement and that is what I am  
6 interpreting what Lou is saying.

7 Now, that's not the way I interpret it, and it is  
8 not clear to me how you interpret it. On the one hand it is  
9 clear that you don't think that a specific finding of  
10 adequacy in each case is required, but is information on the  
11 safeguards performance in the IAEA relevant to a finding in  
12 Criteria <sup>on</sup> 1 or is it not relevant?

13 CHAIRMAN HENDRIE: I think everybody must agree that  
14 something further than checking the box is reasonable, because  
15 we ask at somebody's request or other whether there is a  
16 facility attachment, and if not, is it clear that indeed there  
17 will be appropriate inspection activities. As far as I know,  
18 State has supplied that information both on their side and  
19 ours, at least this further, maybe sub-box under the  
20 Criterion 1 box. Everybody must feel this is a further check  
21 on them. It is something beyond just a simple check.

22 MR. PICKERING: I suppose that <sup>as</sup> another sub-box  
23 is, are inspections being carried out? Is the process going  
24 forward where it needs to go forward?

25 CHAIRMAN HENDRIE:

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MR. PICKERING: In terms of Criterion 1.

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CHAIRMAN HENDRIE: Yes, probably capability over inimicality, too.

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COMMISSIONER GILINSKY: If I misunderstood you, I would like to have it corrected, and Lou seems to think that I mischaracterized that.

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MR. NOSENZO: Yes, I think you did.

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COMMISSIONER GILINSKY: I would like to have that corrected, the mischaracterization corrected.

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But certainly the impression I got from your letter was that: "Sure, we are going to supply you that information, but let's be clear that this has to do with inimicality and has nothing to do with Criterion 1."

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I guess what I'm saying is, I think it has a lot to do with Criterion 1, depending on the nature of the information.

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MR. PICKERING: That's the important point, Vic.

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I think what we have to try to distinguish here is basically a notion that I hope you will understand.

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I'm saying that that causes a serious amount of political and other damage to the system if we have to go through that.

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Now, maybe this is a question of making the theology fit the case.

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COMMISSIONER GILINSKY:

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MR. PICKERING: Now look. Without accepting your characterization, there is no question at all that we both join together in an action plan, and one aspect of this is, obviously, to achieve to the extent that we can, declassification in the IAEA context of safeguards confidential information which clearly doesn't warrant that sort of protection.

So I don't think we have ignored that, and I think that that's an important aspect of where we ought to be going and the kinds of ways that we ought to be proceeding.

COMMISSIONER GILINSKY:

MR. PICKERING Lou, do you want to talk about that.

MR NOSENZO:



1 MR. SHEA: We could get into that at 3:00 this  
2 afternoon.

3 COMMISSIONER GILINSKY:  
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5 MR. SHEA: Okay.

6 CHAIRMAN HENDRIE: Good, I won't declare the level  
7 raised then.

8 COMMISSIONER GILINSKY: Let me make just one more  
9 comment.

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21 MR. PICKERING: I think that we, obviously, come at  
22 this with somewhat different presumptions, and they may come  
23 as the result of the different jobs we have to do, Vic, but it  
24 seems to me that we have made a conscious policy decision to  
25 have the IAEA perform the safeguards role internationally.

1 That's the basis in which we have started.

2 We recognize that that has disadvantages, because  
3 we are not in complete control of the situation. We recognize  
4 that we are willing to accept those on the basis of the fact  
5 that we have strong U.S. participation, we even have U.S.  
6 inspectors.

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11 we should presume,  
12 particularly in cases where the country's credentials are good,  
13 that it is working, at least adequately.

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18 I think that may be a different perception  
19 than the one you feel incumbent on you in the NRC to take, but  
20 it is clear we have got a different set of starting points or  
21 this if that's the case.

22 COMMISSIONER GILINSKY:  
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COMMISSIONER KENNEDY: Tom, could you elucidate a little bit on your view of the extent to which the United States has <sup>^</sup> and I think the word was used <sup>^</sup> "oversight" responsibility in connection with IAEA's performance of its safeguard function?

MR. PICKERING: Well, I would think -- I'm not an expert on this and I will call on my experts in a minute, but I would think as a responsible member of the agencies <sup>r</sup> and as a member of the Board of Governors, we have a responsibility in that context to be sure that we are satisfied that the agency is doing its job or if it is not doing its job, it is doing all that it can in the context of an international agency, and all <sup>what</sup> of <sup>^</sup> that implies, to pull up its socks. I think we have generally felt that to be the case, but, Lou, do you want to add anything on that?

MR. NOSENZO: Our agreements, the way we have interpreted them, generally with our fallback safeguard rights,

1 if we believe that the agency is not applying safeguards on an  
2 effective basis that we have the right to apply safeguards  
3 bilaterally. But I think what we have been trying to do is to--  
4 recognizing that the IAEA is not a perfect instrument, and I  
5 think the point that we made previously, it doesn't have to be  
6 a perfect instrument, but it has to be effective -- somehow,  
7 quote: "effective" in deterring countries from diverting  
8 material. Then the question is: What represents this level  
9 of capability that would provide that effective return?

10 We push very hard to get the IAEA to accept, as a first  
11 step, self-analysis, a critical analysis, the SIR. It started  
12 with the Special Safeguards Implementation Report and now it is  
13 routine every year.

14 We have pressed on the agency very hard that this is  
15 a fine first step, but if you don't follow up on the things that  
16 are in the SIR and identify<sup>ed</sup> it as deficiencies, that it seems  
17 like the job is only half done, to keep identifying the same  
18 deficiencies year after year does not make a lot of sense <sup>and</sup> ~~if~~  
19 it is not in the interest of the agency. So we have been  
20 pressing very hard on them, on Grumm<sup>e</sup>, on Epklund and on Fisher,  
21 to set up a task force which would be specifically oriented to  
22 try to correct some of these problems. And they are in the  
23 process of doing it. It is very hard to get them to do it,  
24 for a number of reasons. Budgetary reasons, reluctance by the  
25 Board<sup>x</sup> members themselves to have the agency Secretariat look

1 at countries on a country-specific basis, but I think we are  
2 making some progress there. It takes a lot of pressure and a  
3 lot of work.

4 But I guess the point I'm trying to make is that  
5 we, including not only the Executive Branch, but the NRC people,  
6 are trying to push on the agency, in a generic sense, to upgrade  
7 safeguards and to insure that they meet at least a minimum  
8 effectiveness that will allow us to be able to take the statement  
9 of the agency when it makes it in the SIR that in their view  
10 there have been no significant diversions of material on its  
11 face value, and believe it. But I think that this problem is  
12 one that we have to tackle generically and examine generically,  
13 which we have been doing, rather than on a country-specific  
14 basis.

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21 With regard to your comment, Vic, on a lot of the  
22 information that is safeguards confidential and it shouldn't  
23 be, I don't think there is anybody that disagrees with that.  
24 We may disagree on certain aspects of it, but we have been  
25 working hard as part of the action plan as well, to try to get

1 the agency to try to declassify some of this stuff, to make it  
2 generally available. I think the facility attachment, the  
3 one that they are now publishing, is a good example of some  
4 success that we have had.

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14 COMMISSIONER KENNEDY:

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16 MR. NOSENZO:

17 COMMISSIONER KENNEDY: Yes. .

18 MR. NOSENZO: Yes.

19 MR. PICKERING: Vic, could I say one thing, because  
20 it seems to me we may be coming from pretty far apart. <sup>F</sup>from  
21 some of the things you have said, at least, <sup>this</sup> leads me to believe  
22 that in practical terms, we can talk about it ~~in the~~ operational  
23 terms, we are not so far apart, if there is a general acceptance  
24 on your part that leaving aside our differing views in the  
25 theology, which must remain, I suppose, differing views given

1 from where we come from, but I think are less relevant to the  
2 answer than the fact is,  
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12 Now, if it is the other way around, you will certainly,  
13 as a member of the Commission, want to stand on your view of  
14 the Commission's legislative responsibilities, and I can't,  
15 again, say that. I can only give you mine or the Executive  
16 Branch's views.  
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19 That  
20 may be something that is more discussable, more settled by  
21 staff, and something that is a little more amenable to reaching  
22 an agreement between us than the question of trying to argue  
23 the issue of where we both come from on it.  
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3 COMMISSIONER AHEARNE: I wonder if I could make a  
4 couple of comments.

5 It appeared to me before, and I think the meeting  
6 has really just reconfirmed or reemphasized that, you might  
7 say that in my view there are at least -- there were three  
8 questions and they are of a different character.

9 First is, should the NRC address adequacy? And  
10 that's your theological point, Tom. And I think that there are  
11 several differences that are not only where we are, but it is  
12 the overall approach. I think the State Department, by its  
13 general nature, approaches things in a more or less subjective  
14 fashion, and ---

15 MR. PICKERING: I think that's a nice comment.  
16 Not very often do people say that. We should get those  
17 inscribed in bronze.

18 COMMISSIONER GILINSKY: Did you say "objective"?

19 COMMISSIONER AHEARNE: I said, subjective.

20 MR. PICKERING: Oh, I thought you said "objective".

21 (Laughter)

22 MR. PICKERING: A communications problem.

23 COMMISSIONER AHEARNE: Whereas, I think a regulatory  
24 agency tends to try through the regulations, particularly, I  
25 think when you get it down to the NRC staff that is in the



1 business of trying to examine, for example, domestically,  
2 we have such regulations which we apply. Here are what are  
3 required to be met, are they met. There is certain detailed  
4 information that has to be provided to ensure that they are  
5 met, and then it, at least in principle, is a straightfoward  
6 conclusion, yes or no.

7           Therefore, when a regulatory agency is brought into  
8 this arena of trying to assess something in the international  
9 sphere in working with the State Department you have this  
10 fundamental conflict. On the one hand, your mode is to work  
11 with -- you work with so many grey areas so often that I think  
12 you feel a lot more comfortable in trying to address or reach  
13 a resolution of an issue pulling together all of those grey  
14 areas. Whereas a regulatory staff is very uncomfortable in  
15 that and will attempt to acquire the kind of detailed  
16 information that they are more comfortable with, and in their  
17 view, if you have a statute that says something that's the  
18 way you live up to a statute.

19           Now, it gets down into this question of whether or  
20 not the statute requires us to make an NRC determination of  
21 adequacy. Now, adequacy, in our view I think, or at least in  
22 the staff's view would end up being adequacy as the same  
23 question of Erwin with regard to fuel services. Do they have  
24 adequate safeguards?

25           I wouldn't be surprised, no matter how hard we have

1 worked to resolve this, at some point then we have to go back,  
2 to the Congress and ask them, "What did you really have in  
3 mind?" You people are a lot more familiar with the background  
4 and history. I have not read that much on it, but what little  
5 I have read, it appears to me that there is a conscious  
6 decision on the part of many of the participants not to resolve  
7 that issue, and as a result there is this ambiguity, and at  
8 some point we probably will have to face, to what extent can  
9 we meet our type of regulatory conclusion and see if the  
10 Congressional view is that they wanted the NRC to apply the  
11 same kind of standards that they would apply domestically, that  
12 really is a much tougher standing<sup>ard</sup> than I think you people are  
13 prepared to have us apply, or that the system is really ready  
14 for us to apply.

15 MR. PICKERING: Could I make just one comment.

16 I think I would add here, leave our attitudes alone  
17 and if you can, talk about the adequacy of the international  
18 system of which we are a member, its capacity to provide the  
19 information.

20 COMMISSIONER AHEARNE: But you see, Tom, the point  
21 you made is that the United States is in an agreement that the  
22 IAEA will provide international safeguards. My interpretation  
23 of it is that there may be an inconsistency then between at  
24 least some interpretations of the NNPA and that statement.  
25 And that's what I meant, we will have to get a clarification.

1 MR. NOSENZO: But in terms of adequacy, I thought  
2 the point Tom was making is that one looks generically at the  
3 IAEA in terms of adequacy. Not in terms of adequacy, but in  
4 terms of does it apply to safeguards.

5 COMMISSIONER AHEARNE: Well, but "apply" then gets  
6 directly into the questions Vic was raising. You have to  
7 ask very specifically what is done where.

8 I'm not saying that I have reached that point, but  
9 that seems to me, in the background.

10 The second question was, "Do we have all of the  
11 information that you people have?" I hope we do, so you can  
12 put that to rest.

13 COMMISSIONER BRADFORD: Could I ask a question in  
14 that category?

15 Tom, I got from what you say we, at least, have access  
16 to all of it, but I guess I'm a little unclear on the process  
17 of delivery.  
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23 MR. PICKERING:  
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MR. BORIGHT: The things that Tom listed, the categories of information, each one of them has a pretty normal channel by which it comes to us. Some of them you see in routine cables, some of it because your staff worked with us on the action plans. So I think if you go down that list you will be able to identify ---

MR. NOSENZO:

COMMISSIONER BRADFORD: Well, that's what I was ---

MR. NOSENZO: "... and do we record that in what we provide you?"

COMMISSIONER BRADFORD: Yes.

MR. NOSENZO: I think the answer to that is, negative.

MR. PICKERING: Negative, if you had it.

COMMISSIONER BRADFORD:

MR. NOSENZO:

1 COMMISSIONER AHEARNE:  
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12 I think, at the moment, I have the feeling that we  
13 could continue to come and sit around this table, but the  
14 staff doesn't do a similar thing.

15 MR. PICKERING: John, could I just add two points.

16 First, I appreciate your very clear explanation of  
17 the different points to which we are coming. That was part  
18 of what I was trying to articulate when I talked about the  
19 fact that Vic and I or others might disagree, and I think  
20 that that's right.

21 I think also, your suggestion of the solution is very  
22 much in sympathy with the sort of approach I would like to take.  
23 How practically can we resolve the question, which at this  
24 point, seemingly is a crisis of confidence between the NRC  
25 and the State Department, try to remove that so that there is

1 at least some feeling of understanding of what each does and  
2 where it comes from, even if we have a little better sense of  
3 where we can't meet your requirements.

4 COMMISSIONER GILINSKY: Let's go back to your letter  
5 for a moment.

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19 MR. PICKERING:  
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24 The feeling we have is the precedential or the  
25 slippery slope problem. If one is seen to be the entree for

1 that, then why isn't -- there is no way of distinguishing, in  
2 our judgment, between the two. Whereas the inimicality question  
3 allows one to consider a broad range of foreign policy  
4 considerations.

5 COMMISSIONER GILINSKY: But that, it seems to me, is  
6 something that ought to be looked at for the Commission to  
7 decide how it interprets its specific responsibility.

8 MR. PICKERING: Okay. Well, what we were doing is  
9 wanting to put down a marker in response to the marker we felt  
10 that came to us in Joe's letter, as governments will do, even  
11 in conversing among themselves about a particular thesis or  
12 theological point of view which was expressed there.

13 Now, I think that certainly we could sit here and  
14 enjoy ourselves all day arguing about that. It isn't my  
15 judgment of how to spend our time --

16 COMMISSIONER KENNEDY: No, we can't either.

17 MR. PICKERING: -- in the best possible way.

18 But I would say, in all frankness, I just want to be straight-  
19 forward and frank, that having received the letter we thought  
20 that it would be better to be on record in response <sup>with</sup> ~~that~~ a  
21 view that was our own view of how the situation should be  
22 responded to.

23 COMMISSIONER AHEARNE: Another reason why staff  
24 should get together instead of us writing letters. <sup>to</sup>

25 COMMISSIONER KENNEDY: Tom, I'd like to go back <sup>to</sup> something

1 that you just said at the beginning of your note.

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Well, I'm clear as to how that works, because it is  
5 a practical matter.

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MR. PICKERING: Can I say two things on that, Dick.

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The real concern I have is that up until now, we have only a theological problem to wrestle with, we have not had a practical one. And your question is addressed to the issue of when we have a practical one, what are we going to do.

I will say that I will come here as a reasonable guy, or Lou, and tell you when we can't make it and why and hope we can gather enough support from you all to make the issue clear.

COMMISSIONER KENNEDY: You are assuming that reasonableness is on both sides?

MR. PICKERING: Exactly, right.

1 COMMISSIONER KENNEDY: I commend you for that point.

2 MR. PICKERING: I think it is all the way around,  
3 or hope it is, yes.

4 MR. NOSENZO: Let me just say that in the past the  
5 request by the NRC for information, which I think we have  
6 responded to, have been generally ---

7 MR. PICKERING: We haven't had any <sup>feeling</sup> ~~ceiling~~ about  
8 that, no.

9 COMMISSIONER BRADFORD:

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15 MR. PICKERING:

16 MR. NOSENZO:

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23 MR. NOSENZO:

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COMMISSIONER GILINSKY:

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MR. PICKERING:

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After all, many countries in the world are unhappy with the notion they have to accept any inspections that their word is at stake, <sup>and</sup> has got to be verified. It is inherently a burden for them, but <sup>one</sup> when they are willing and freely able to undertake, but it has got its limits. And the issue there, I suppose, Vic, is that we see ourselves in our pursuit of nonproliferation policy as having to bear some of the burdens of the demander in the process, as well as being right.

1 I think we have no question in the judgment that we are doing  
2 the right thing, but we also have to sell the rest of the  
3 world and that isn't a question of legislation or international  
4 system so perfect that we can enforce that view, because it is  
5 generally conceded to be right.

6 It is a part of the international process that we are  
7 where we are now.

8 COMMISSIONER GILINSKY: I mean, there is no provision  
9 in the IAEA, say for the Indians coming in, that they are  
10 worried about the Pakistanis and could you send in another  
11 inspector.

12 MR. PICKERING: I wish there were. That might help  
13 us.

14 COMMISSIONER GILINSKY: Whether or not it is  
15 exercised, there is no way for anybody to do that.

16 MR. SHEA:

17 MR. PICKERING:

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20 COMMISSIONER KENNEDY:

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MR. BORIGHT: The Secretariat.

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COMMISSIONER KENNEDY: That's right.

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MR. PICKERING:

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COMMISSIONER KENNEDY: We read that in the New York

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Times.

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MR. PICKERING:

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That, I don't think was in the New York Times.

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Can we raise the last five minutes, Joe, to the

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Secret level? Is that a problem?

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COMMISSIONER GILINSKY: No problem.

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CHAIRMAN HENDRIE: All right, shall we do that now  
or retrospectively?

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1 COMMISSIONER BRADFORD:  
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13 MR. BORIGHT: But that is almost a situation that is  
14 facility specific and not country specific, sort of by the  
15 way you define it. The SIR gives you the information, (a)  
16 *So you* didn't know how bad the situation is, and (b) to take the  
17 steps to improve it. So it is not clear why you would need  
18 to put the finger on the specific country if the SIR says,  
19 do you have a hard time doing the job at a fabrication plant,  
20 for example.

21 COMMISSIONER BRADFORD: Supposing two or three years  
22 had gone by, though, and that same item was continuing to  
23 appear in the SIR without having been able to be improved at  
24 all ---

25 MR. BORIGHT: But that was the plan I was trying to

1 get at before, because there is another <sup>barrier</sup> ~~carrier~~, which is the  
2 SSAC, which perhaps is country specific, where we have been  
3 trying to work through the agencies and get them to follow up  
4 on, for example, the bulk plant facilities, and part of that  
5 is technology. You just really don't have the technology  
6 to be able to appropriately handle that.

7 On the SSAC, it is a matter of encouraging these  
8 countries and working with them. As you know, last year we  
9 made an offer to help countries bilaterally with their SSACs,  
10 we have renewed it this year, we are taking two steps, you  
11 are taking one step, which is working with Korea, as one  
12 example, to help them improve their SSAC.

13 We also, as part of the next part of physical  
14 security inspections, are offering experts in accountancy and  
15 control on the teams to discuss accountancy and control with  
16 our technical people. We have bilateral cooperation, and I  
17 think they will be receptive to it in that framework. You know,  
18 we have had some indication of the receptivity.

19 But again, the question of approaching it generically  
20 rather than approaching it through the export licencing process.

21 MR. PICKERING: Peter, could I make one point here.

22 It would seem to me the cases that you are raising  
23 are initially, at least, <sup>susceptible</sup> ~~acceptable~~ to improvement of safeguards  
24 by careful examination of the deficiencies on a facilities  
25 basis in the SIR. That ought to be our first effort. One should  
certainly look there. if that continues to reappear in the

1 process that we have set out in future years, doesn't seem  
2 to make any improvement, then I suppose one does get to a  
3 question in terms of inimicality judgments as we see it,  
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8 COMMISSIONER GILINSKY: Let me see, Tom, I'm thinking  
9 of a specific case. Highly-enriched uranium. As I read  
10 the agency's rules it talks about inspecting stocks of highly-  
11 enriched uranium, to go through the quantities four times  
12 a year. The SIR tells you they don't come close to that  
13 sort of a standard, and that's highly-enriched uranium in  
14 front of you. I am concerned about whether the IAEA is, in  
15 fact, meeting its standard which, I must say, I regard as  
16 inadequate in itself, as a minimum that they are meeting their  
17 standard.  
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20 MR. PICKERING: Well, I think the appropriate  
21 inquiries should be on a generic basis with respect to all --  
22 to meeting all of their inspection standards with respect to  
23 HEU.

24 COMMISSIONER GILINSKY:  
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1 Now, it is one thing if the SIR was saying, you know,  
2 yes, the standard is being met and you could still say, well,  
3 how do I know it will be met in this case, and there is no  
4 end to the kinds of questions you can raise. But you have  
5 to assume -- there are certain presumptions of adequate  
6 performance that you have to make, but when their reports say  
7 that they aren't coming close, and I don't regard the IAEA  
8 as being an agency that exaggerates criticism of its own  
9 performance, and that's a matter of considerable concern to me.

10 MR. BORIGHT: Yes, I have meant to comment.  
11 Commissioner Gilinsky has used the phrase, "The IAEA  
12 standards," in several questions, and I think we have been  
13 through this before, but we do have to remember that the  
14 situation is that the IAEA has never adopted a specific  
15 interpretation of that paragraph in 153 that says timely  
16 detection.

17 We have worked very hard and pressed on them, a  
18 certain set of goals on that assumption -- the feelings that  
19 without something specific in mind, you couldn't put their  
20 feet to the fire sufficiently. And we have succeeded in having  
21 them adopt a set of specific timelimits and sensitivity goals  
22 as goals, and in fact, they are writing the SIR measuring  
23 against those goals. But their instructions from the Board,  
24 which is the only capable organ to give them instructions, is  
25 very clear that those are goals and not requirements. In fact,  
there is some unhappiness with the last Board in particular, with

1 the use of those thing.

2 Just for the record, when you say their standards,  
3 it is that they are standards used by the Secretariat in  
4 absence of anything else, that they are not adopted standards,  
5 and one has to keep that in mind.

6 As a footnote ---

7 COMMISSIONER GILINSKY: But where does that lead you?

8 MR. BORIGHT:

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COMMISSIONER GILINSKY: But is isn't as if the  
standard is very strict, really, it's stocks of highly-enriched  
uranium four times a year.

We have a national policy to keep plutonium from  
getting spread around because we regard this kind of inspection

1 as inadequate.

2 MR. BORIGHT: Yes. Four inspections a year on HEU  
3 would certainly <sup>not</sup> be strict and that is certainly not the  
4 standard we are talking about.

5 COMMISSIONER GILINSKY: But that standard is not  
6 met.

7 MR. BORIGHT: All right, that's the kind of a problem  
8 that we should be working on, but the standard that we are  
9 talking about is something like ~~a~~ few weekly inspections, *every*  
10 That's the timeliness that should be achieved.

11 COMMISSIONER GILINSKY: Well, on one SIR a day --

12 MR. BORIGHT: But they use the same standards under  
13 the same goals.

14 CHAIRMAN HENDRIE: I don't know where it leads you,  
15 Vic.

16 On the one hand, you say you recognize the imperfection  
17 of the system and you agree with the thrust to work in it.  
18 Then you say, you don't think they are meeting whatever their  
19 own standards are, understood in the sense of goals, and you  
20 don't agree that those are adequate even if they were met, and  
21 what are you going to do with this export.

22 Question: What are you going to do? Should we simply  
23 just shutdown the export business? Is that a national policy  
24 which you would agree to?

25 COMMISSIONER GILINSKY: Well, let me turn this around.

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CHAIRMAN HENDRIE:

COMMISSIONER GILINSKY: Well, each Commissioner has got to decide for himself, I suppose.

It seems to me that you have a choice here. To go one way -- too far in one direction, you have made the point -- you have used the words, but the common phrase is that we are undermining the IAEA. In the other direction, it seems to be we are undermining the NNPA and it is clear the choices are going to have to get made here, but we have also got to be concerned about the latter.

COMMISSIONER AHEARNE: That's why I'm interested in having staffs do a little bit more work together. At some point the conclusion may be that that kind of a fundamental dichotomy really will be seen and we will have to go back to Congress.

MR. NOSENZO: Victor, on the HEU point in particular, I don't argue with you on the inspection frequency and the need for it. I think that the rationale for pushing very hard on the agency to improve their ability to inspect stockpiles or facilities that have HEU, and need to put on some minimum kind of conditions. But I

1 suspect you are aware that while the resources of the agency  
2 are limited and when you push harder in one direction you do  
3 tend to take off capabilities in other directions. The  
4 agency has, in fact, done that. It, of course, pays more  
5 attention to HEU critical facilities, bulk-handling facilities  
6 et cetera, than it does, for example, to LEU and reactors.

7           What would have to happen is that both things we  
8 have been pushing for, more focus on what (inaudible) and two,  
9 an increase in the number of inspectors, and also, an increase  
10 in the speed with which they get accredited by their various  
11 countries.

12           COMMISSIONER GILINSKY: It seems to me everybody  
13 wants their system to be improved, obviously, I would like to  
14 see them improved and I would like to see the agencies do  
15 that, but at the beginning of any effort in this directions  
16 seems to me is an accurate and clear appraisal of what is,  
17 in fact going on.

18           MR. NOSENZO: The SIR indicates that, I mean, that's  
19 where you got your frequency numbers and the reason they  
20 are in there is because (inaudible)

21           COMMISSIONER GILINSKY:  
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MR. PICKERING: That's a proposition we have accepted.

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MR. NOSENZO: What is troublesome and where we

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differ, I think, although you indicate there is an ambiguity,

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John, I would really say there really is no ambiguity based

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on the negotiation history of the law, otherwise the word

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"adequacy" would have been put in Criteria <sup>or</sup> 1. It is where

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you consider it.

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If you consider adequacy in the context of all of

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the nonproliferation considerations that go into inimicality,

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for example, are they an NPT party?

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COMMISSIONER GILINSKY: That is something, it seems

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to me, you ought to leave to us. I mean, I understand

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perfectly why you prefer to have it that way, but you know,

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given that we pass on these exports, just as to where we

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allocate the information and which part of the findings,

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we are all into, that is something that ---

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MR. NOSENZO: It is obviously something each

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Commissioner has to decide for himself.

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What I was conveying was ---

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CHAIRMAN HENDRIE: On the other hand, the law is

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hardly NRC's private property.

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MR. PICKERING: That's right, and I was going to make  
that a point.

24

CHAIRMAN HENDRIE: The Executive Branch has a

25

clear responsibility and right to put down the way it reads that

1 statute.

2 MR. PICKERING: You feel there is a statutory  
3 obligation on you to do certain things, and that imposes  
4 a secondary statutory obligation on us to provide information,  
5 and we, obviously, have to have a view as to the initial  
6 aspect as to how the legislation bites.

7 CHAIRMAN HENDRIE: Listen, we have gone until 11:00,  
8 which appears ---

9 COMMISSIONER AHEARNE: Stay for lunch.

10 (Laughter)

11 CHAIRMAN HENDRIE: We are running out of the assigned  
12 time, and I must say, if I felt there was a convergence in the  
13 discussion that I could perceive, why I would be willing to go  
14 on a little bit longer, but it seems to me there is not  
15 convergence and I can't see just exercising the same points.

16 Peter, do you have -- You haven't said much so why  
17 don't I give you the last round.

18 COMMISSIONER BRADFORD: Okay. I'm not sure it is  
19 a different question and if it seems as though it is going  
20 to take you long, maybe I can do it another time.

21 I wonder if you could just look quickly at the  
22 Attachment in Joe's February letter regarding safeguards  
23 information, and flag out which of those items is reasonably  
24 available (background noise, inaudible.)

25 MR. PICKERING: Without going through it item-by-item,

1 that is why I mentioned in my opening remarks, page 2, the  
2 numbered paragraph 2, it is kind of a generic sweeping up of  
3 everything.

4 COMMISSIONER BRADFORD: As to Item 1, then, is that  
5 not a particularly troublesome ---

6 MR. PICKERING:  
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21 MR. SHEA: So earlier, Lou, I think, last August,  
22 you had indicated <sup>your</sup> ~~their~~ willingness to work with NRC in  
23 acquiring voluntarily available information and you are  
24 reaffirming that, I gather.  
25



1 MR. NOSENZO: Yes, we are reaffirming that, and  
2 we discussed two ways to do it.

3 One way was through a direct NRC, and their equivalent,  
4 cooperative arrangements, which is one way to get at one; and  
5 the other one was, well, how else could we do it through  
6 bilateral cooperation.

7  
8  
9 COMMISSIONER BRADFORD: But ~~on~~ Page 4 of that list  
10 has a couple of headings: Missing material and unauthorized  
11 applications, occurrence<sup>re</sup> of a significant MUF.  
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21 MR. NOSENZO:

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25 MR. BORIGHT: <sup>for</sup> Certain sensitive facilities, obviously

1 a few of a kind, one has a better idea of what you are dealing  
2 with.

3 COMMISSIONER BRADFORD:

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7 MR. NOSENZO:

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9  
10 But remember, that is the key, really and probably the major  
11 area identified in the SIR. It is not only an issue which  
12 is one that is related to the country, though, it is a  
13 technological issue, we don't have the capability for the  
14 inspector to really do a good job.

15 The other one is the inventory taking, and it has  
16 got to be a combination of advance in technology, plus the  
17 coordination between the agency and the operator to insure,  
18 kind of minimum interference, yet ability to <sup>take</sup> accurate  
19 inventories.

20 COMMISSIONER BRADFORD: But there could, then, be a  
21 bulk-handling facility which <sup>is</sup> ~~is~~ having significant difficulties  
22 with material accounting and control, which then could be  
23 reported in the SIR, but which would not be reflected in your  
24 assessment to us of safeguards related to the country.

25 MR. NOSENZO: Well, our assessment to you is we

1 have no reason to believe that there has been any diversion  
2 of material. I guess that standpoint would be accurate,  
3 whether there would be a large MUF or not, I think is another  
4 issue.

5 COMMISSIONER BRADFORD: Yes. But I'm not sure I know  
6 what I would do if there were a large MUF.

7  
8  
9 MR. NOSENZO:

10 CHAIRMAN HENDRIE: One last item, Tom.

11 I see that we have some -- we both have letters from  
12 Senator Glenn, and I think that we can answer them separately,  
13 but it appears to me that the staffs might do some check ---

14 MR. PICKERING: Yes. If I might say, in answering  
15 the question that he addressed to me, there seemed to be an  
16 effort to make some difference between full substance and  
17 all information.

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However, we are prepared to respond exactly the way we have responded to you today, by saying we provide all of the information and then list the information that is relevant. And in fact, we might even attempt to take another

1 look at the testimony to make certain that we are very clear.

2 His letter seems to distinguish between full  
3 substance and everything in my copy. I haven't seen yours,  
4 so I don't know what he is really driving at, but there is  
5 obviously some concern on the Committee staff, which I think  
6 is misplaced.

7 COMMISSIONER AHEARNE: There might have been some  
8 point that had been (inaudible) and in your transcripts  
9 you said you would endeavor to provide full substance,  
10 however (inaudible) and the implication could be then reached  
11 that you give <sup>the</sup> ~~him~~ documents which you have to.

12 MR. PICKERING: Yes, we can straighten that out.  
13 We can leave the "in confidence" and it applies both to you  
14 and us, and "in confidence" also applies to the SIR. There is  
15 no "however".

16 CHAIRMAN HENDRIE: We ~~are~~ also are requested to supply  
17 the relevant correspondence between ourselves and you, and  
18 if you have any objection to our attaching our answers to the  
19 letter, why ---

20 MR. PICKERING: I think we are going to do the same  
21 thing, so if you have no objection, we'll send them duplicates.  
22 We have to make certain that our staffs know that we both  
23 have the same view of the relevant correspondence.

24 CHAIRMAN HENDRIE: That's right, the collections.

25 COMMISSIONER KENNEDY: We can always solve that by

1 bundling up everything that exists and shipping all that  
2 and let them decide what is relevant.

3 CHAIRMAN HENDRIE: Okay, let's see. I can't think  
4 of any othe urgent matters.

5 MR. SHEA: I was going to say that, speaking for the  
6 staff, we certainly will endeavor to follow up with Lou's  
7 people, as Commissioner Ahearne suggested, to try to make  
8 sure, I guess, initially that we have all of the available  
9 information; it is so scattered that we may simply not have  
10 it if it is older.

11 COMMISSIONER AHEARNE: Or within the Commission and  
12 you cannot collect it.

13 MR. SHEA: That's right, or maybe in people's heads  
14 and not written down. So we would like to be sure we have  
15 all of that.

16 Did you want to say anything about the technical  
17 economic <sup>justification</sup> ~~distribution~~ for high-enriched or just pass ~~on~~ on that  
18 and maybe Lou could say --

19 MR. NOSENZO: I think it needs some talking, usually  
20 can we get into the theological question of whether that material  
21 is, in fact, appropriate in your export licensing process for  
22 making a determination ~~that~~ either on the export criteria or  
23 on the inimicality question. But in practical matters, we have,  
24 in the past supplied background information on what the  
25 situation is with regard to HEU and the potential conversion of

1 it consistent with the President's policy. You are aware  
2 of the President's policy.

3 Also, the NRC staff is on <sup>the SNEC</sup> its neck and therefore,  
4 all of the economic rationale <sup>and</sup> technical rationale, for  
5 example that is prepared by Argonne, <sup>is</sup> are available to you,  
6 and if there has been any problem in the past, I would assume  
7 that there would be no problem in the future.

8 Again, though, I would point to the theological  
9 question of whether this is a matter of policy, Presidential  
10 policy and if we are facing this policy whether this is ---

11 COMMISSIONER KENNEDY: That is the issue.

12 You may not understand that when you are dealing  
13 with a theological institution, theology becomes terribly  
14 important.

15 CHAIRMAN HENDRIE: Okay, very good.

16 I think we could usefully withhold this tape and  
17 I will ask your vote. Those in favor?

18 COMMISSIONER BRADFORD: Aye.

19 COMMISSIONER AHEARNE: Aye.

20 COMMISSIONER KENEDY: Aye.

21 CHAIRMAN HENDRIE: So ordered.

22 (Whereupon, the meeting in the above-entitled matter  
23 was concluded at 11:10 a.m.)

24

25



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D.C. 20555

July 8, 1980

OFFICE OF THE  
SECRETARY

COMMISSION DETERMINATION REGARDING PUBLIC DISCLOSURE  
UNDER THE GOVERNMENT IN THE SUNSHINE ACT OF:

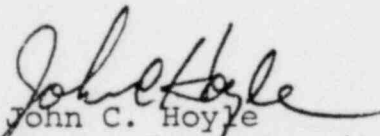
Transcript of Briefing by Executive Branch  
on International Safeguards, July 10, 1979

Pursuant to 10 CFR 9.108(c), the Commission has determined that the attached portions of the subject transcript should be released to the public. The remaining portions of the transcript are being withheld from public disclosure pursuant to 10 CFR 9.104 as noted below:

<u>Page/Line</u>	<u>thru</u>	<u>Page/Line</u>	<u>Exemption</u>
5/19		6/5	10 CFR 9.104(a)(1)
6/6		6/6	10 CFR 9.104(a)(1)
6/20		7/6	10 CFR 9.104(a)(1)
7/16		8/11	10 CFR 9.104(a)(1)
9/9		10/24	10 CFR 9.104(a)(1)
11/7		11/13	10 CFR 9.104(a)(1)
11/24		12/25	10 CFR 9.104(a)(1)
13/23		14/3	10 CFR 9.104(a)(1)
16/4		16/11	10 CFR 9.104(a)(1)
20/14		20/25	10 CFR 9.104(a)(1)
21/25		22/6	10 CFR 9.104(a)(1)
22/21		22/22	10 CFR 9.104(a)(1)
22/25		23/13	10 CFR 9.104(a)(1)
23/18		24/10	10 CFR 9.104(a)(1)
24/20		24/22	10 CFR 9.104(a)(1)
24/24		24/25	10 CFR 9.104(a)(1)
25/3		25/4	10 CFR 9.104(a)(1)
25/10		25/20	10 CFR 9.104(a)(1)
26/6		26/11	10 CFR 9.104(a)(1)
26/14		26/18	10 CFR 9.104(a)(1)
26/22		27/9	10 CFR 9.104(a)(1)
29/15		29/20	10 CFR 9.104(a)(1)
30/4		30/16	10 CFR 9.104(a)(1)
31/2		31/11	10 CFR 9.104(a)(1)
31/16		31/19	10 CFR 9.104(a)(1)
31/23		32/2	10 CFR 9.104(a)(1)
35/17		36/5	10 CFR 9.104(a)(1)
36/12		36/14	10 CFR 9.104(a)(1)
36/22		37/11	10 CFR 9.104(a)(1)
38/6		38/23	10 CFR 9.104(a)(1)

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40/2		40/3	10 CFR 9.104(a)(1)
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40/17		40/18	10 CFR 9.104(a)(1)
40/20		41/14	10 CFR 9.104(a)(1)
42/9		43/17	10 CFR 9.104(a)(1)
44/16		45/1	10 CFR 9.104(a)(1)
45/4		45/9	10 CFR 9.104(a)(1)
45/12		45/19	10 CFR 9.104(a)(1)
46/1		46/12	10 CFR 9.104(a)(1)
48/4		48/7	10 CFR 9.104(a)(1)
48/18		48/19	10 CFR 9.104(a)(1)
48/24		48/26	10 CFR 9.104(a)(1)
50/8		50/20	10 CFR 9.104(a)(1)
52/1		52/5	10 CFR 9.104(a)(1)
53/21		54/1	10 CFR 9.104(a)(1)
56/6		56/21	10 CFR 9.104(a)(1)
57/6		57/9	10 CFR 9.104(a)(1)
57/12		57/25	10 CFR 9.104(a)(1)
58/3		58/9	10 CFR 9.104(a)(1)
59/6		59/9	10 CFR 9.104(a)(1)
59/17		59/21	10 CFR 9.104(a)(1)



John C. Hoyle  
Acting Secretary of the Commission