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26 April 1954

MEMORANDUM FOR THE GENERAL COUNSEL

SUBJECT: DD/I Comments concerning Atomic Energy Act Amendments

This office has the following comments on H.R. 8862:

1. Section 11 (c). We recommend that "all data" in the first line be amended to read "all U.S. data." The purpose of this change is to exclude information furnished by friendly governments but not related to U.S. developments. At present, although "all data" is not construed to include intelligence information concerning Soviet developments (unless evaluated in such a way as to express U.S. Restricted Data), it ~~is~~ could be construed to include information, falling within the general definition, concerning developments in friendly countries, whether such information is furnished voluntarily by such countries or is obtained by intelligence methods. The result is a substantial inhibition on the use of such information, which has no justification from the standpoint of U.S. defense and security. It would be assumed, of course, that information on developments in foreign countries would continue to be protected by an appropriate security classification of the usual type.

2. Sections 123 and 144. On these closely related sections, considered together for convenience, we have the following:

a. It is not clear whether existing agreements entered into under Section 10 (a) (3) of the present Act would have to be renegotiated. Although there are certain technical differences (e.g., that a Presidential finding would be specifically required

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under the amendments to the effect that the other nation is not threatening U.S. security), the present Act is generally more stringent. Since it would be a substantial administrative burden to renegotiate existing agreements (particularly that with the UK on intelligence sharing of restricted data), we urge strongly the insertion of an appropriate "saving clause," presumably in Section 144.

b. The Chapter heading for Chapter 11 ("International Arrangements") may lead to some confusion, since Section 11 (j) gives this term a particular meaning of Congress-approved agreements. Section 123 discusses "agreements for cooperation" and it is clear from the definition of this term in Section 11 (a) that such agreements need not be approved formally by Congress. Recommend the heading be changed to read "International Cooperation" or "International Agreements and Arrangements."

c. It is noted that Section 144 (b) would clearly apply to NATO and other treaty agreements, but might leave in some doubt the status of West Germany (even after entry into EDC), Spain, and Yugoslavia, since to the best of our knowledge we have no Congressionally-approved agreements with these countries. Perhaps this strict standard was intended, but certainly we can make the intelligence judgments that (1) Spanish cooperation with the US would suffer if we started telling the NATO countries how to defend against A-weapons, and did not tell the Spaniards; (2) it is not easy to work out arrangements with Spain.

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