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February 9, 1978

SECY-78-84

COMMISSIONER ACTION

For: The Commissioners

From: James R. Shea
Director, Office of International Programs

Thru: *f* Executive Director for Operations *A. J. Davis*

Subject: TRANSFER OF CLASSIFIED NON-MILITARY INFORMATION TO
FOREIGN GOVERNMENTS BY NRC.

Purpose: To obtain Commission concurrence in the proposed procedures
for transferring classified information* originated by NRC
or its contractors to foreign governments.

Discussion: Some documents prepared by NRC or its contractors, dealing
with such matters as safeguards, physical security,
and sabotage prevention, are classified and fall within
the category of classified non-military information. We
have received requests from two foreign governments
(Federal Republic of Germany and Italy) to furnish them
copies of such documents and to hold meetings with their
representatives on these subjects. Similarly, NRC has an
interest in obtaining the same type of information from
foreign sources which may be classified by the source
government. Because of this mutual interest in these
important topical areas, the NRC staff proposes to transfer
or exchange, on a limited basis, classified national
security information originated by NRC or its contractors
with foreign governments.

The basic guidance for transferring classified non-military
information to foreign governments is specified in the

THIS DOCUMENT HAS BEEN DECLASSIFIED UNDER
THE PROVISIONS OF EO 12958 14/17/95
By Authority of *[Signature]*

(Declassification Authority/Number)

Date of Declassification *2/17/2006*

* The term information includes written, oral and visual information.

X-See 3
See 131004
Contact:
O. Faulkner, IP

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(Insert proper classification)

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DECLASSIFICATION
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Presidential Directive of September 23, 1958, and its Attachment (Enclosure 1). Both the Department of State and Department of Energy exchange such information with foreign governments.

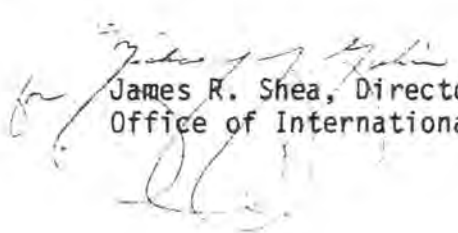
Enclosure 2 is a copy of Chapter 500 of the Foreign Affair Manual, which prescribes State Department policy and procedures for implementing such exchanges. Enclosure 3 is a letter from E. B. Giller, then Deputy Assistant Administrator for National Security at ERDA, to L. V. Gossick that describes the procedures followed by ERDA for such exchanges. Our proposed procedures are consistent with the guidance of the Presidential Directive and the implementing procedures of both the Department of State and ERDA.

The essential procedures to be followed by NRC in implementing such an exchange are specified in Enclosure 4. The staff will exchange classified information only under conditions that conform to the requirements of this Enclosure. In brief these procedures provide that (1) the Director, Office of International Programs, will determine, in consultation with the Department of State, that such transfers will result in a net advantage to the national security interests of the United States, and (2) an agreement for the exchange of classified information will be executed between NRC and the appropriate foreign government agency at the time of the initial transfer to each foreign agency.

These procedures do not apply to the transfer of classified information to international organizations.

Recommendation: That the Commission concur in the proposed procedures for transferring classified information to foreign governments.

Coordination: This paper has been concurred in by the Division of Security and the Office of Nuclear Material Safety and Safeguards. The Office of the Executive Legal Director has no legal objection. The Department of State has been informed of our proposed procedures and has no objection.


James R. Shea, Director
Office of International Programs

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Enclosures:

1. Presidential Directive of September 23, 1958
2. Chapter 500, Foreign Affairs Manual
3. Letter from E. B. Giller, ERDA.
4. Procedures for NRC Transfer of Classified
Non-Military Information to Foreign Governments.

NOTE: Commissioners' comments should be provided directly to the
Office of the Secretary by close of business Thursday, February 23

Commission staff office comments, if any, should be submitted to the
Commissioners NLT February 16, 1978, with an information copy to the
Office of the Secretary. If the paper is of such a nature that it
requires additional time for analytical review and comment, the
Commissioners and the Secretariat should be apprised of when comments
may be expected.

DISTRIBUTION

Commissioners
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Secretariat

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ENCLOSURE 1

PRESIDENTIAL DIRECTIVE OF SEPTEMBER 23, 1958

Presidential Directive of September 23, 1958

THE WHITE HOUSE

Washington

September 23, 1958

**MEMORANDUM FOR THE HEADS OF
EXECUTIVE DEPARTMENTS AND AGENCIES**

I shall henceforth hold responsible the head of each department and agency of the Executive Branch for insuring that classified defense information of this Government is furnished to foreign governments in accordance with the criteria and procedures stated in the attached "BASIC POLICY GOVERNING THE RELEASE OF CLASSIFIED DEFENSE INFORMATION TO FOREIGN GOVERNMENTS" which is hereby approved.

My directive of May 25, 1953 titled "MAKING CLASSIFIED SECURITY INFORMATION AVAILABLE TO FOREIGN NATIONALS" is hereby revoked. The provisions of Executive Order No. 10501 dated November 5, 1953, shall continue to apply to the handling of classified defense information within the U.S. Government, but shall not apply to its dissemination to, or handling by, a foreign government under the terms of this directive.

/S/ Dwight D. Eisenhower

NOTE. --Executive Order No. 10501 dated November 5, 1953, was superseded by Executive Order No. 11652 dated March 8, 1972, effective June 1, 1972.

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Authorized by William McAfee

DIRECTIVE

BASIC POLICY GOVERNING THE RELEASE OF CLASSIFIED
DEFENSE INFORMATION TO FOREIGN GOVERNMENTS

It is essential to the defense interest of the United States that this Government closely cooperate with certain foreign governments to the extent of furnishing classified defense information, as defined in E. O. 10501, to such governments. The protection of such information released to foreign governments is principally secured by the assurance of the receiving government that such information will be appropriately safeguarded within that government. To establish uniform procedures and to provide for the security of information so released, all departments and agencies shall be guided by the policy set forth herein.

A. FOR THE PURPOSE OF THIS POLICY, THE FOLLOWING
DEFINITIONS ARE ADOPTED

1. MILITARY INFORMATION. Military information is information under the control or jurisdiction of the Department of Defense, its departments or agencies, or of primary interest to them.
2. ORIGINAL RECIPIENTS. Original recipients are considered as those representatives, civil or military, of a foreign government who, either individually or collectively, directly receive from the United States Government classified defense information being communicated or transmitted to their government.
3. SECURITY ASSURANCE. A security assurance is a certification by the receiving government stating in substance that its representatives, civil or military, have been specifically approved by that government to receive classified defense information from the United States Government.

NOTE. -- Executive Order No. 10501 dated November 5, 1953, was superseded by Executive Order No. 11652 dated March 8, 1972, effective June 1, 1972.

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B. CLASSIFIED NON-MILITARY DEFENSE INFORMATION

Classified non-military defense information shall only be released to foreign governments upon compliance with the following conditions:

1. A determination is made by a responsible official of the releasing department or agency that the furnishing of classified defense information will result in a net advantage to the defense interest of the United States. In making such determination the following conditions must be met:
 - (a) Disclosure is consistent with the foreign policy of the United States toward the recipient nation.
 - (b) Disclosure is consistent with the policies of the United States Government with regard to the Atomic Energy Act of 1954, as amended, or with regard to information for which special procedures for release have been or may hereafter be established by competent authority having statutory jurisdiction over the subject matter.
 - (c) Disclosure is consistent with the defense interests of the United States.
 - (d) Disclosure is limited to information necessary to the purpose for which disclosure is made.
2. Additionally, the recipient government must have agreed, either generally or in the particular case, to the following:
 - (a) The recipient government will not release the information to a third government without the approval of the United States.
 - (b) The recipient government will undertake to afford the information substantially the same degree of protection afforded it by the United States.
 - (c) The recipient government will not use the information for other than the purpose given.
 - (d) The recipient government will, in the absence of or pursuant to the provisions of any existing agreement with the United States Government, respect any private rights such as patents, copyrights or trade secrets which are involved in the information.

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The Head of any department or agency or senior United States representative in any foreign country or jurisdiction, or other responsible official when specifically designated by such officer, is authorized to waive the requirements set forth in E 2(a), 2(b) and 2(c) above when deemed necessary, taking into account that the principal means of assuring that the information will be appropriately safeguarded within the receiving government has been thereby eliminated.

C. CLASSIFIED MILITARY DEFENSE INFORMATION

The release of classified military information, as defined in paragraph A(1) above, is governed by the "Basic Policy Governing the Disclosure of Classified Military Information to Foreign Governments" approved by the President on February 27, 1946, . . . and also in accordance with the provisions of paragraphs D through F, inclusive, of this Directive.

D. SECURITY CHECKS AND SECURITY ASSURANCES AND NECESSARY WAIVERS THEREOF

A security assurance shall be required, or, in lieu thereof, an appropriate security check may be made, regarding all original recipients who receive classified defense information. The head of any department or agency or senior United States representative in any foreign country or jurisdiction, or other responsible person specifically designated by such officer, is authorized to waive this requirement regarding high-ranking foreign government civil or military representatives when deemed necessary.

E. RESULTS OF SECURITY CHECKS

The results of any security checks shall be made a matter of record in the releasing department or agency. Any derogatory information derived from such security checks shall be made available to the Central Intelligence Agency and, if the recipient checked is in or comes to the United States, to the Federal Bureau of Investigation.

F. INFORMATION ORIGINATING IN ANOTHER DEPARTMENT OR AGENCY

Except as otherwise provided by Section 102 of the National Security Act of July 26, 1947, c. 343, 61 Stat. 498, as amended, 50 U.S.C., sec. 403, classified defense information, including that pertaining to sources of intelligence and method of its acquisition, originated in another department or agency shall not be released to the foreign government without the consent of the originating department or agency.

G. APPLICABILITY TO AGREEMENTS MADE PURSUANT TO THE ATOMIC ENERGY ACT AND IMPLEMENTATIONS OF FEDERAL STATUTES

The requirements stated herein shall have no application to agreements for cooperation arranged pursuant to the provisions of the Atomic Energy Act of 1954, as amended. Nothing contained in any policy or requirement herein shall be construed to supersede or modify any policy or regulation promulgated pursuant to any Federal statute.

----- (End of President's Directive)

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ENCLOSURE 2

CHAPTER 500, FOREIGN AFFAIRS MANUAL

500 - Release of Classified Information To Foreign Governments

510 STATEMENTS OF GENERAL POLICY

a. The Presidential Directive of September 23, 1958, entitled "Basic Policy Governing the Release of Classified Defense Information to Foreign Governments," states that it is essential to the defense interest of the United States that the U.S. Government closely cooperate with certain foreign governments to the extent of providing them with classified defense information, which is any official information requiring protection in the interest of national defense, including foreign relations information. (See Appendix A, at the end of chapter 500.) The responsibility for insuring that this would be done in accordance with the criteria and procedures stated in the directive was delegated to the head of each department and agency of the executive branch.

Release of classified information to a foreign government must be a coordinated action which will assure that all departments and agencies responsible for the origin, control, or security of the specific information involved in the proposed release have given their prior approval. (See 5 FAM * 957.1, 957.2, and 957.3.) * Release entails oral and visual disclosure as well as the actual passing of documents. The protection of such information released to foreign governments is principally secured by the assurance of the receiving government that such information will be appropriately safeguarded with that government.

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Nothing in this chapter shall be construed as permitting the disclosure of classified information where such disclosure is prohibited by Presidential orders or directives, Federal legislation, including the Atomic Energy Act of 1954, as amended, by any international agreement to which the United States is a party, or by U.S. policy. (See section 532) With few exceptions, information affecting proprietary rights of private citizens, such as patents, copyrights, or trade secrets, is not authorized for release. (See section 532)

b. The head of any department or agency or senior representative in any foreign country or jurisdiction, or other responsible person specifically designated by such officer may, under the provisions of this chapter authorize release of classified nonmilitary information. If appropriate, classified information may be downgraded or declassified prior to release under the provisions of 5 FAM * 920 through 926.7.*

**c. On January 19, 1974, the President directed that:

"Personnel of Country Teams abroad must emphasize to host governments the necessity of maintaining the security of classified material that the United States shares with them and the application of good security practices to that end."

Ambassadors, using appropriate Country Team personnel, are to survey, to the extent necessary, the security measures and procedures of host governments receiving U.S. classified information. The appropriate depth and frequency of such surveys should be determined by the post in accordance with its overall judgment of the general care, concern, and security effectiveness demonstrated by the host government. **

****511 Security Surveys**

a. Determination as to the need for security surveys indicated in section 510c should be made by each ambassador or principal officer, as appropriate. In this connection, the following items should be considered:

(1) The extent to which U. S. classified information is passed to the host government;

(2) The over-all security climate within the host country, that is, knowledge of modern security practices and techniques, willingness, and readiness to accord;

(3) The extent to which the host country's security system has been previously assessed, either by the embassy or by Washington-based survey teams (for example, NDPC surveys governing U. S. classified military information or DOD/AEC (now Energy Research and Development Administration (ERDA)), examinations of the protection given to U.S. atomic energy data.

b. A suggested outline for planning embassy security assessments is listed below.

SECURITY ASSESSMENT OUTLINE

A. Summary appraisal.

B. Basis for safeguarding classified information.

1. Relevant laws and procedures.
2. Handling of security violations.
3. Official and popular attitudes toward security measures.

C. Security organizations.

1. Civilian.
2. Military.
3. Other.

D. Interagency relationships and coordination.

E. Security in government.

1. Regulations and responsibilities.
2. Personnel security.
 - a. Standards.
 - b. Investigative practices.
 - c. Evaluation.
 - d. Clearances.
 - (1) Civilian employees.
 - (2) Military personnel.
 - (3) Industrial personnel.
 - (4) Others.

- e. Handling of security risks.
- f. Security training.
3. Physical security.
 - a. Storage facilities.
 - b. Buildings and area.
4. Control of classified material.
 - a. Classification.
 - b. Dissemination.
 - c. Accountability and reporting.
 - d. Communications, including correspondence, electronic, telephone.
 - e. Disposal.
 - f. Downgrading and declassification of U. S. Government-form classified information.

F. Industrial security.

1. Physical security.
2. Personnel security.
3. Basis for and extent of government control.

G. Findings and recommendations. **

512 through 519 (Unassigned)

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520 DEFINITIONS

521 Classified Nonmilitary Defense Information

Information not originating in, or of primary interest to, the Department of Defense or any of its subordinate departments or agencies, but which nevertheless falls within the definitions in 5 FAM * 957.1 * can be considered nonmilitary in nature. Generally this includes foreign relations and other information originating in the Department of State and the Foreign Service and certain other agencies not part of the Department of Defense.

522 Military Information

Military information is information under the control or jurisdiction of the Department of Defense, its department or agencies, or of primary interest to them. It may be embodied in equipment or may be in written, oral, or other form and includes intelligence of a military nature. Classified military information is military information requiring protection in the interests of national defense and is limited to three classifications: Top Secret, Secret, and Confidential, as described in Executive Order No. * 11652 dated March 8, 1972, effective June 1, 1972. *

523 Intelligence Information: Nonmilitary

a. Intelligence information is collected and produced by member agencies, or intelligence components thereof, of the U.S. intelligence community. The United States Intelligence Board (USIB), operating under directives, develops and reviews security standards and practices relating to the products of the intelligence community. The dissemination and use, including disclosure to foreign governments, of intelligence information is controlled by official directive. (See section 418.) Any distribution or use of intelligence information which is contrary to the provisions of section 418 is not authorized without the permission of the originating office, department, or agency.

b. Intelligence documents produced by Bureau of Intelligence and Research, the Department of State's representative on USIB, fall under the above-mentioned relations.

524 Original Recipients

Original recipients are considered to be representatives, civil or military, of a foreign government who, either individually or collectively, directly receive from the U.S. Government classified defense information being communicated or transmitted to their government.

525 Administratively Controlled Information

Administratively controlled information is defined in 5 FAM * 952.1. *

526 through 529 (Unassigned)

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530 RELEASE OF INFORMATION

531 Criteria for Release of Classified Information

Classified information shall not be released to foreign governments or international organizations unless it has been determined that the proposed disclosure will be:

- a. Advantageous to the United States;
- b. Consistent with current foreign policy toward the recipient;
- c. Consistent with the defense interests of the United States;
- d. Consistent with policies pursuant to the Atomic Energy Act of 1954, as amended, and with special agreements applicable to atomic information;
- e. Limited to the amount of information necessary to accomplish the purpose for which the disclosure is made;
- f. Afforded adequate security protection by the recipient to prevent its compromise; and
- ** g. Accompanied by appropriate steps to give effect to the policy set forth in section 510c. ****

532 General Security Agreements With Other Governments

In compliance with the intent of the President 1958 Directive, general security agreements governing the exchange of classified information have been concluded with a number of governments.

Each agreement meets the basic requirements of the directive, chief among them being the governments agree:

- a. Not to release the information to a third government without the approval of the releasing government;
- b. To afford all information received substantially the same degree of protection afforded it by the releasing government;
- c. That the information will not be used for other than the purpose intended;
- d. To respect private rights, such as patents, copyrights, or trade secrets which may be involved in the information; and
- ** e. To inform U. S. authorities promptly and fully of any suspected or known compromise**

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533 Security Assurances, Clearances,
and Waivers

533.1 Classified Information of a Nonmilitary
and Nonintelligence Nature

a. Individual representatives of a foreign government who are the intended original recipients of classified information should have received appropriate security clearances for access to information of the security classification involved. An assurance of such clearances shall be required from each government for all original recipients concerned or, in lieu thereof, an appropriate security check may be requested on each recipient. Requests for security checks shall be referred to the Office of Security or the regional security officer. Results of such checks shall be given to the requesting officer, and any derogatory information resulting from checks made abroad shall be forwarded to the Director, Office of Security, Attention: Records and Services Branch. Any derogatory information obtained in such checks shall also be made available to the Central Intelligence Agency and, if the recipient checked is in or comes to the United States, to the Federal Bureau of Investigation. A record of such checks shall be made.

b. When circumstances warrant an exception to this requirement and release is considered desirable in the over-all national interest, heads of departments, agencies, senior U.S. representatives abroad, or other responsible officials specifically designated by such officers, are authorized to waive security assurances or checks for high-ranking foreign representatives.

533.2 Classified Military Information

The National Military Information Disclosure Policy Committee (NDPC) is responsible for the formulation, promulgation, administration, and monitoring of national policy and procedures for the disclosure of classified military information to foreign government and international organizations. Its role and functions, together with a revised statement of "National Disclosure Policy" is set forth in NDP-1, issued December 17, 1969, by the Secretary of Defense, with the approval of the Secretary of State. All U.S. Government officials are subject to its provisions, which be observed in considering or making disclosure of classified military information to other governments or international organizations.

533.3 Classified Intelligence Information

Intelligence information, other than military intelligence, is under the control of the United States Intelligence Board (USIB). USIB policy requires that each U.S. department or agency to which foreign liaison or integrated officers are accredited, shall cause security checks to be made on such officers. This does not apply to foreign representatives who have other than a normal liaison or integrated relationship. For release to such foreign original recipients, see section 418, 531, 532 and 533.1. Release of intelligence information should be coordinated with the Bureau of Intelligence and Research.

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533.4 Administratively Controlled Information

The release of administratively controlled information to foreign governments and international organizations is not directly affected by Executive Order No. * 11652 * or the President's Directive of September 23, 1958. Such material, unless containing a caveat to the contrary, may be released under the policies outlined in subchapters 510 and 530, except that it shall be necessary only to determine that the release is consistent with the policies of the U. S. Government and is advantageous to the United States.

534 Record of Release

Complete records showing the exact information released, names and signatures of approving officials, the form in which information was released ("sanitized," oral, etc.), date of release, identity of government organization and original individual recipient, security assurances, security checks, waivers exercised, etc., shall be completed and filed in appropriate offices making the release. Oral disclosures shall be embodied in a memorandum of conversation.

535 Responsibility for the Review of Disclosures of Classified Nonmilitary Information to Foreign Governments

Responsibility delegated to the Interdepartmental Committee on Internal Security (ICIS) by National Security Council Action No. 1983(b)2 (as modified by NSC Action 2125-F) for the review of the implementation of policies relating to classified nonmilitary information and disclosures thereof was delegated to the Department of State and assigned to the Office of the Deputy Assistant Secretary for Security * (A/SY). *

536 through 539 (Unassigned)

540 through 590 (Unassigned)

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ENCLOSURE 3

LETTER FROM E. B. GILLER, ERDA

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Enclosure



UNITED STATES
ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION
WASHINGTON, D.C. 20545

DEC 29 1976

Mr. Lee V. Gossick
Executive Director for Operations
Office of the Executive Director for Operations
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Dear Mr. Gossick:

We have had several requests from the NRC staff for information regarding how we handle the exchange of classified non-military defense information with foreign governments. The following information is provided for your use.

The rules governing release of such classified information to foreign governments are set forth in a Presidential Directive of September 23, 1963 (copy attached). The protection of such information released to foreign governments is principally secured by the assurance of the receiving government that such information will be appropriately safeguarded within the government. The established procedures are contained in the Presidential Directive and extracted below. The Directive refers to E.O. 1050 "Basic Policy Governing The Release Of Classified Defense Information", since superseded by E.O. 11652 "Classification and Declassification of National Security Information and Material."

Classified non-military defense information is only released to foreign governments in compliance with the following conditions:

"A determination is made by a responsible official of the releasing department or agency that the furnishing of classified defense information will result in a net advantage to the defense interest of the United States." (The Assistant Administrator for International Affairs has been the ERDA official acting in this capacity.)

In making such a determination, the following conditions apply:

1. Disclosure is consistent with the foreign policy of the United States toward the recipient nation.



NATIONAL SECURITY
INFORMATION

Unauthorized Disclosure Subject to
Criminal Sanctions.

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EXECUTIVE ORDER 11652 EXEMPTION CATEGORY
AUTOMATICALLY DECLASSIFIED ON 1 1 2000

U.S. NRC Declassification Review

1 st REVIEW - DATE: <u>20250601</u>	DETERMINATION (CIRCLE NUMBER(S))
REVIEWER: <u>3591</u>	1. CLASSIFICATION RETAINED
AUTHORITY: ☐ DC ☒ DD	2. CLASSIFICATION CHANGED TO _____
2 nd REVIEW - DATE: <u>20250609</u>	3. CONTAINS NO NRC CLASSIFIED INFO
REVIEWER: <u>3470</u>	4. COORDINATE WITH: _____
AUTHORITY: <u>DD</u>	5. DECLASSIFIED
	6. CLASSIFIED INFO BRACKETED
	7. OTHER (SPECIFY): _____

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2. Disclosure is consistent with the policies of the United States Government with regard to the Atomic Energy Act of 1954, as amended, or with regard to information for which special procedures for release have been or may hereafter be established by competent authority having statutory jurisdiction over the subject matter.
3. Disclosure is consistent with the defense interests of the United States.
4. Disclosure is limited to information necessary to the purpose for which disclosure is made.

Additionally, the recipient government must have agreed, either generally or in the particular case, to the following principles:

1. The recipient government will not release the information to a third party without the approval of the releasing party;
2. The recipient government will undertake to afford the information substantially the same degree of protection afforded it by the releasing party;
3. The recipient government will not use the information for other than purpose for which it was given; and
4. In the event that the releasing party indicates that any private right such as patents, copyrights, or trade secrets are involved in the information, the receiving party will respect such rights.

A statement or letter prepared for the signature of Mr. Sievering, outline the above basic four principles assuring the proper safeguarding of information which will be exchanged during bilateral technical discussions. The recipient of Mr. Sievering's letter, in turn, acknowledges in writing that his government accepts the principles.

Sincerely,



Edward B. Giller
Deputy Assistant Administrator
for National Security

Enclosure:
As stated

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REF ID: A66321

BASIC POLICY GOVERNING THE RELEASE OF CLASSIFIED
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A. FOR THE PURPOSE OF THIS POLICY, THE FOLLOWING DEFINITIONS ARE APPLIED

1. MILITARY INFORMATION. Military information is information under the control or jurisdiction of the Department of Defense, its departments or agencies, or of primary interest to them.
2. ORIGINAL RECIPIENTS. Original recipients are considered as those representatives, civil or military, of a foreign government who, either individually or collectively, directly receive from the United States Government classified defense information being communicated or transmitted to their government.
3. SECURITY ASSURANCE. A security assurance is a certification by the receiving government stating in substance that its representatives, civil or military, have been specifically approved by that government to receive classified defense information from the United States Government.

B. CLASSIFIED NON-MILITARY DEFENSE INFORMATION

Classified non-military defense information shall only be released to foreign governments upon compliance with the following conditions:

1. A release must be made by a responsible official of the United States Department or agency that the furnishing of classified defense information will result in a net advantage to the defense interests of the United

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States. In making such determination the following conditions shall apply:

- (a) Disclosure is consistent with the foreign policy of the United States toward the recipient State.
- (b) Disclosure is consistent with the policies of United States Government with regard to the Atomic Energy Act of 1954 as amended or with regard to information for which special procedures for release have been or may hereafter be established by competent authority having statutory jurisdiction over the subject matter.
- (c) Disclosure is consistent with the defense interests of the United States.
- (d) Disclosure is limited to information necessary to the purpose for which disclosure is made.

2. Additionally, the recipient government must have agreed either generally or in the particular case, to the following:

- (a) The recipient government will not release the information to a third government without the approval of the United States.
- (b) The recipient government will undertake to afford the information substantially the same degree of protection afforded it by the United States, including prosecution for unlawful disclosure.
- (c) The recipient government will not use the information for other than the purpose given.
- (d) The recipient government will, in the absence or pursuant to the provisions of any existing agreement with the United States Government, respect any private rights such as patents, or rights or trade secrets which are involved in the information.

The Head of any department or agency or senior United States representative in any foreign country or jurisdiction, who is authorized to make such disclosure, is authorized to make the disclosure only if he is satisfied that the recipient government, (a) is authorized to receive the information, (b) will afford the information the same degree of protection that the principal means of assuring that the information will be appropriately safeguarded within the receiving government has been thereby eliminated.]

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C. CLASSIFICATION OF MILITARY INFORMATION

The release of classified military information, as set forth in paragraph A.1, above, is governed by the "Basic Policy Governing the Disclosure of Classified Military Information to Foreign Governments" approved by the President on February 27, 1946, and amended hereto, and also in accordance with the provisions of Paragraphs D through inclusive, of this Directive.

D. SECURITY CHECKS AND SECURITY ASSURANCES AND NECESSARY WAIVERS THEREOF

A security assurance shall be required, or, in lieu thereof, an appropriate security check may be made, regarding all original recipients who receive classified defense information. The head of any department or agency or senior United States representative in any foreign country or jurisdiction, or other responsible person specifically designated by such officer, is authorized to waive this requirement regarding high-ranking foreign government civil or military representatives when deemed necessary.

E. RESULTS OF SECURITY CHECKS

The results of any security checks shall be made a matter of record in the releasing department or agency. Any derogatory information derived from such security checks shall be made available to the Central Intelligence Agency and, if the recipient checked is in or comes to the United States, to the Federal Bureau of Investigation.

F. INFORMATION ORIGINATING IN ANOTHER DEPARTMENT OR AGENCY

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2. APPLICABILITY TO AGREEMENTS MADE PURSUANT TO THE ATOMIC
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The requirements stated herein shall have no application to agreements for cooperation entered pursuant to the provisions of the Atomic Energy Act of 1954, as amended. Nothing contained in any policy or requirement herein shall be construed to supersede or modify any policy or regulation promulgated pursuant to any Federal statute.

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ENCLOSURE 4

PROCEDURES FOR NRC TRANSFER OF CLASSIFIED NON-MILITARY
INFORMATION TO FOREIGN GOVERNMENTS

UNCLASSIFIED

Enclosure 4

Procedures for NRC Transfer of Classified Non-Military
Information to Foreign Governments

The following procedures will apply to the transfer of classified non-military information originated by NRC or its contractors to foreign governments.

1. Authority - NRC transfers of classified non-military information to foreign governments will be made in accordance with the Presidential Directive of September 23, 1958, and its Attachment entitled, "Basic Policy Governing the Release of Classified Defense Information to Foreign Governments." The following requirements are specified in these directives.

2. Requirements - Before release of classified non-military information to any foreign government, a determination is made by a responsible official of the releasing agency that the furnishing of classified information will result in a net advantage to the national security interest of the United States. In making such a determination the following conditions must be met:

- A. Disclosure is consistent with the foreign policy of the United States toward the recipient nation.
- B. Disclosure is consistent with the policies of the United States Government with regard to the Atomic Energy Act of 1954,

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as amended, or with regard to information for which special procedures for release have been or may hereafter be established by competent authority having statutory jurisdiction over the subject matter.

- C. Disclosure is consistent with the national security interests of the United States.
- D. Disclosure is limited to information necessary to the purpose for which disclosure is made.

Additionally, the recipient government must have agreed, either generally, or in the particular case, to the following:

- a. The recipient government will not release the information to a third party without the approval of the releasing party;
- b. The recipient government will undertake to afford the information substantially the same degree of protection afforded it by the releasing party;
- c. The recipient government will not use the information for other than the purpose for which it was given; and
- d. In the event that the releasing party indicates that any private rights, such as patents, copyrights, or trade secrets are involved in the information, the receiving party will respect such rights.

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3. Internal Procedures - The following internal procedures will apply:

- The Office of International Programs will initiate and coordinate the procedural process to implement the proposed classified information transfer.
- The Director, Office of International Programs, will make the determination required in section 2, "that the furnishing of classified information will result in a net advantage to the national security interest of the United States". The determination will be made with the concurrence of ELD, SEC, and the responsible program office.
- The Office of International Programs will consult with the State Department and other agencies or departments as appropriate in making this determination.
- For the initial transfer for each separate foreign government agency the Division of Security, with the assistance of the Offices of International Programs and the Executive Legal Director, will develop a classified information exchange agreement. Such an agreement will specify the necessary requirements to insure the security of the transferred information, and it will be tailored to be compatible with the terms and conditions of existing government-to-government agreements to transfer classified information. Furthermore, it would be modified to accommodate any special requirements.

- The exchange agreement would be executed by the Executive Director for Operations upon a finding that the recipient government has appropriate provisions for the protection of the information.
- If a waiver to the required understandings identified in section 2 a, b, or c is deemed necessary, the determination will be made by the Executive Director for Operations and will be forwarded to the Commission for concurrence. Such waivers are permitted by the basic policy stated in the attachment to the Presidential Directive of September 23, 1958 (Enclosure 1). Such waivers are expected to be infrequent.
- As required in existing delegations of authority, the Commission will be informed prior to the execution of any such international agreement.
- The Division of Security will confirm the existence of an applicable government-to-government agreement between the U.S. and the appropriate foreign country prior to the development of an exchange agreement.
- The Division of Security will review all classified documents proposed for transfer. If the transfer includes classified information originated by another government agency, SEC will obtain approval for the transfer of such information from the appropriate agency.

- The Division of Security will report to the National Disclosure Policy Committee those transfers of classified information which are required by the National Disclosure Policy. Such reporting is required when defense information is involved.
- The Division of Security will develop procedures for the physical transfer of any classified documents. Normally, it is expected that the transfer of documents by NRC would occur at the local embassy of the receiving country.
- The Office of the Executive Legal Director will review and concur in the legal aspects of the information transfer.