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23 SEPT 86

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REMARKS

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* U.S.G.P.O.: 1983-421-529/320

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EXECUTIVE SECRETARIAT

ROUTING SLIP

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1	DCI				
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10	GC				
11	IG				
12	Compt				
13	D/OLL				
14	D/PAO				
15	D/PERS				
16	VC/NIC				
17	NIO/CT		X		
18	NIO/NP		X		
19	D/OS		X		
20	D/OSWR		X		
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		SUSPENSE	<u>25 Sept 86</u>		
			Date		

Remarks
 To 9: Please handle directly and advise ES name of our representative.

22 Sept 1986

Date

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United States Department of State

Washington, D.C. 20520

September 20, 1986

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Executive Registry
86-4199X

Interagency Group No. 20

- TO :
- OVP - Mr. Donald P. Gregg
 - NSC - Mr. Rodney McDaniel
 - ACDA - Mr. William Staples
 - ~~CIA~~ - [redacted]
 - Commerce - Mrs. Helen Robbins
 - Defense - COL James Lemon
 - Energy - Mr. William V. Vitale
 - JCS - MAJ James Boatright
 - NRC - Mr. Samuel Chilk
 - OMB - Mr. L. Wayne Army
 - OSTP - Mr. Richard Johnson

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SUBJECT: IG on Physical Protection Studies Required by the Omnibus Diplomatic Security and Terrorism Act

Sections 601 and 604 of the subject legislation direct the Executive branch to conduct physical protection studies. Section 601 directs the President, enlisting the participation of all relevant departments and agencies of the Government, to review the IAEA recommendations on Physical Protection of Nuclear Material. The findings of the President under Section 601 are to be reported to the Director General of the IAEA. Section 604 requires the Secretaries of State, Energy and Defense, the Director of ACDA, and the NRC to review the adequacy of physical security standards currently applicable to the shipment and storage of certain categories of nuclear material outside the United States that is subject to U.S. prior consent rights. Section 604 directs each agency to submit its report to the Congress within six months of enactment of the law, i.e., six months from August 27, 1986 (by February 27th, 1987).

Ambassador John D. Negroponte, Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs, will chair a meeting of the Interagency Group on Nuclear Non-Proliferation on Tuesday, September 30, 1986 at 10:30 a.m. in the OES Conference Room, Room 7835, Department of State, to discuss a coordinated approach to the required reports.

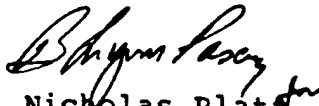
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DECL:OADR

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Agencies planning to participate are requested to provide the names of their representatives to Mr. Jeff Lutz of OES/NEP prior to the meeting. Mr. Lutz can be reached at 647-4812.


Nicholas Platt
Executive Secretary

Attachments:

1. Provisional IG Agenda
2. Sections 601 and 604 of the Omnibus Diplomatic Security and Antiterrorism Act of 1986
3. Conference Report on Title VI - International Nuclear Terrorism

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IG Agenda

- I. - Sections 601 & 604 Reports**
- II. - Procedures for Coordination**
- III. - Schedule for Activities**
- IV. - Physical Protection Standards**
- V. - Baseline Threats**

1 Administration Act of 1979 (50 U.S.C. App. 2405(j)(1)(A)),
2 has repeatedly provided support for acts of international
3 terrorism.

4 (b) WAIVER.--The President may waive the prohibition
5 contained in subsection (a) in the case of a particular
6 export if the President determines that the export is
7 important to the national interests of the United States and
8 submits to the Congress a report justifying that
9 determination and describing the proposed export. Any such
10 waiver shall expire at the end of 90 days after it is granted
11 unless the Congress enacts a law extending the waiver."

12 (b) OTHER GOODS AND TECHNOLOGY.--Section 6(j)(1) of the
13 Export Administration Act of 1979 (50 U.S.C. App. 2405(j)(1))
14 is amended by striking out "\$7,000,000" and inserting in
15 lieu thereof "\$1,000,000".

16 TITLE VI--INTERNATIONAL NUCLEAR TERRORISM

17 SEC. 601. ACTIONS TO COMBAT INTERNATIONAL NUCLEAR TERRORISM.

18 (a) ACTIONS TO BE TAKEN BY THE PRESIDENT.--The Congress
19 hereby directs the President--

20 (1) to seek universal adherence to the Convention on
21 the Physical Protection of Nuclear Material;

22 (2) to--

23 (A) conduct a review, enlisting the participation
24 of all relevant departments and agencies of the
25 Government, to determine whether the recommendations

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1 on Physical Protection of Nuclear Material published
2 by the International Atomic Energy Agency are
3 adequate to deter theft, sabotage, and the use of
4 nuclear facilities and materials in acts of
5 international terrorism, and

6 (B) transmit the results of this review to the
7 Director-General of the International Atomic Energy
8 Agency;

9 (3) to take, in concert with United States allies and
10 other countries, such steps as may be necessary--

11 (A) to keep to a minimum the amount of
12 weapons-grade nuclear material in international
13 transit, and

14 (B) to ensure that when any such material is
15 transported internationally, it is under the most
16 effective means for adequately protecting it from
17 acts or attempted acts of sabotage or theft by
18 terrorist groups or nations; and

19 (4) to seek agreement in the United Nations Security
20 Council to establish--

21 (A) an effective regime of international
22 sanctions against any nation or subnational group
23 which conducts or sponsors acts of international
24 nuclear terrorism, and

25 (B) measures for coordinating responses to all

1 acts of international nuclear terrorism, including
2 measures for the recovery of stolen nuclear material
3 and the clean-up of nuclear releases.

4 (b) REPORTS TO THE CONGRESS.--The President shall report
5 to the Congress annually, in the reports required by section
6 601 of the Nuclear Non-Proliferation Act of 1978 (22 U.S.C.
7 3281), on the progress made during the preceding year in
8 achieving the objectives described in this section.

9 SEC. 602. AUTHORITY TO SUSPEND NUCLEAR COOPERATION WITH
10 NATIONS WHICH HAVE NOT RATIFIED THE CONVENTION
11 ON THE PHYSICAL PROTECTION OF NUCLEAR MATERIAL.

12 Chapter 11 of the Atomic Energy Act of 1954 is amended by
13 adding at the end thereof the following new section:

14 "SEC. 132. AUTHORITY TO SUSPEND NUCLEAR COOPERATION WITH
15 NATIONS WHICH HAVE NOT RATIFIED THE CONVENTION ON THE
16 PHYSICAL SECURITY OF NUCLEAR MATERIAL.--

17 "The President may suspend nuclear cooperation under
18 this Act with any nation or group of nations which has not
19 ratified the Convention on the Physical Security of Nuclear
20 Material."

21 SEC. 603. CONSULTATION WITH THE DEPARTMENT OF DEFENSE
22 CONCERNING CERTAIN NUCLEAR EXPORTS AND
23 SUBSEQUENT ARRANGEMENTS.

24 Chapter 11 of the Atomic Energy Act of 1954, as amended
25 by section 602 of this Act, is further amended by adding at

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1 the end thereof the following new section:

2 "SEC. 133. CONSULTATION WITH THE DEPARTMENT OF DEFENSE
3 CONCERNING CERTAIN EXPORTS AND SUBSEQUENT ARRANGEMENTS.--

4 "a. In addition to other applicable requirements--

5 "(1) a license may be issued by the Nuclear
6 Regulatory Commission under this Act for the export of
7 special nuclear material described in subsection b.; and

8 "(2) approval may be granted by the Secretary of
9 Energy under section 131 of this Act for the transfer of
10 special nuclear material described in subsection b.;

11 only after the Secretary of Defense has been consulted on
12 whether the physical protection of that material during the
13 export or transfer will be adequate to deter theft, sabotage,
14 and other acts of international terrorism which would result
15 in the diversion of that material. If, in the view of the
16 Secretary of Defense based on all available intelligence
17 information, the export or transfer might be subject to a
18 genuine terrorist threat, the Secretary shall provide to the
19 Nuclear Regulatory Commission or the Secretary of Energy, as
20 appropriate, his written assessment of the risk and a
21 description of the actions the Secretary of Defense considers
22 necessary to upgrade physical protection measures.

23 "b. Subsection a. applies to the export or transfer of
24 more than 2 kilograms of plutonium or more than 20 kilograms
25 of uranium enriched to more than 20 percent in the isotope

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1 233 or the isotope 235.

2 SEC. 604. REVIEW OF PHYSICAL SECURITY STANDARDS.

3 (a) REVIEWS.--The Secretary of Energy, the Secretary of
4 Defense, the Secretary of State, the Director of the Arms
5 Control and Disarmament Agency, and the Nuclear Regulatory
6 Commission shall each review the adequacy of the physical
7 security standards currently applicable with respect to the
8 shipment and storage (outside the United States) of
9 plutonium, and uranium enriched to more than 20 percent in
10 the isotope 233 or the isotope 235, which is subject to
11 United States prior consent rights, with special attention to
12 protection against risks of seizure or other terrorist acts.

13 (b) REPORTS.--Not later than 6 months after the date of
14 enactment of this Act, the Secretary of Energy, the Secretary
15 of Defense, the Secretary of State, the Director of the Arms
16 Control and Disarmament Agency, and the Nuclear Regulatory
17 Commission shall each submit a written report to the
18 Committee on Foreign Affairs of the House of Representatives
19 and the Committee on Foreign Relations of the Senate setting
20 forth the results of the review conducted pursuant to this
21 section, together with appropriate recommendations.

22 SEC. 605. INTERNATIONAL REVIEW OF THE NUCLEAR TERRORISM

23 PROBLEM.

24 The Congress strongly urges the President to seek a
25 comprehensive review of the problem of nuclear terrorism by

The Senate amendment contains no comparable provision.

The conference substitute (section 509) amends the Arms Export Control Act by prohibiting exports of any item on the Munitions Control List to any country which has been designated as a supporter of international terrorism as defined by section 6(j) of the EAA. The President may waive the prohibition if he certifies to Congress that the export is important to the national interests of the United States. The conference substitute retains the present statutory language of the EAA but changes the Congressional notification requirement of export licenses approved for countries designated as supporters of international terrorism in section 6(j) of the act from exports valued at more than \$7 million to more than \$1 million.

TITLE VI - INTERNATIONAL NUCLEAR TERRORISM

Actions to Combat International Nuclear Terrorism

The House bill (section 601) directs the President to seek universal adherence to the Convention on the Physical Protection of Nuclear Materials, and to conduct a review, with the participation of all relevant U.S. Government agencies, as to whether the International Atomic Energy Agency (IAEA) recommendations on protection of nuclear materials are adequate to deter theft, sabotage, and the use of nuclear facilities and materials in acts of international terrorism. It also directs the President to take steps to minimize the amount of weapons-grade nuclear material in international transit and to insure that when any such material is transported internationally it is protected effectively, and to seek agreement in the U.N. Security Council to

establish an effective regime of international sanctions against any nation or subnational group which conducts or sponsors acts of international terrorism. In addition the President is required to report to the Congress annually on the progress made in the preceding year in achieving these objectives.

The Senate amendment contains no comparable provision.

The conference substitute (section 601) is similar to the House bill with several modifications. The substitute clarifies the steps which the President should take regarding the transfer of nuclear materials.

The committee of conference recognizes that close cooperation and commonality of purpose among the Allies is necessary to ensure successful cooperation on the steps the President is directed to take pursuant to this section. Nonetheless, the executive branch should understand that it is the purpose of the Congress in enacting this section to charge the United States to take the lead in identifying the necessary steps and forging effective agreements.

The committee of conference does not intend to prescribe a single method or standard of physical protection, and recognizes that differing combinations of measures may similarly afford effective means of adequately protecting nuclear material from terrorist diversion or sabotage. The committee of conference understands that the method of transport chosen, the constitution of the nuclear material, and legal requirements, among other variables, affect judgments on the most effective means of adequately protecting nuclear material; those judgments will therefore differ from case to case.

Further, the committee of conference believes that joint efforts under agreements for nuclear cooperation with other nations represent the best means to achieve nonproliferation goals and to continue the use of nuclear energy for

peaceful purposes.

Authority to Suspend Nuclear Cooperation with Nations Which Have Not Ratified the Convention on the Physical Protection of Nuclear Material

The House bill (section 602) authorizes the President to suspend nuclear cooperation with any nation or group of nations which has not ratified the Convention on the Physical Protection of Nuclear Material.

The Senate amendment contains no comparable provision.

The conference substitute (section 602) is identical to the House bill. This provision demonstrates the committee of conference's strong support for the Convention, and it is the intention of the committee of conference that nuclear cooperation be conducted subject to effective physical protection standards.

Consultation with the Department of Defense Concerning Certain Nuclear Exports and Subsequent Arrangements

The House bill (section 603) expresses congressional intent that the perspective of the Department of Defense on the physical protection of nuclear material should be fully incorporated into the inter-agency executive branch review process of nuclear export cases and subsequent arrangements.

The Senate amendment contains no comparable provision.

The conference substitute (section 603) is similar to the House bill but clarifies that the Secretary of Defense should rely on all available intelligence information as provided by the Director of Central Intelligence.

The committee of conference intends that the Secretary of Defense, through the regular consultation process with the Nuclear Regulatory Commission and the Secretary of Energy, concerning the view of the Secretary of Defense should make his assessment regarding a terrorist threat to the export or transfer of nuclear weapons-grade material and the adequacy of the physical protection of that material according to all available intelligence information and the coordinated threat assessment as provided by the Director of Central Intelligence.

Review of Physical Security Standards

The House bill (section 604) requires 5 Government agencies to review the adequacy of physical protection measures applied to shipments and storage (outside the United States) of nuclear material subject to U.S. prior consent rights. It also requires a report from each agency to Congress on their review within 6 months of the date of enactment of this act.

The Senate amendment contains no comparable provision.

The conference substitute (section 604) is similar to the House bill with an amendment reordering the listing of the Government agencies.

The committee of conference intends that these reports be submitted to the Congress as individual departmental reports and not be consolidated. Further, each department or agency in providing its final report to the Congress pursuant to this section, should provide its unique perspective, analysis, and recommendations regarding the adequacy of the actual physical security conditions and requirements. This provision does not require onsite visits to inspect such material.

International Review of the Nuclear Terrorism Problem

The House bill (section 605) directs the President to seek a comprehensive review of the problem of nuclear terrorism by an international conference.

The Senate bill contains no comparable provision.

The conference substitute (section 605) is similar to the House bill but replaces the word "directs" with "strongly urges".

Criminal History Record Checks

The Senate amendment (section 703) contains a provision requiring fingerprinting and criminal history record checks for certain employees of nuclear power plants.

The House bill contains no comparable provision.

The conference substitute (section 606) is similar to the Senate amendment with some modifications. The substitute, which incorporates the substance of S. 274, passed by the Senate on October 3, 1985, adds a new section to the Atomic Energy Act of 1954 which is intended to establish a uniform procedure for criminal history checks, applicable to all commercial licensees, regardless of ownership.

The committee of conference agrees that the Nuclear Regulatory Commission (NRC) will serve as the channeling agency, in order to collect fingerprint cards from licensees and applicants, forward them to the Federal Bureau of Investigation for identification and a criminal history record check, and distribute the results to the licensees and applicants. The NRC will not