

DECEMBER 8, 1966

ATOMIC ENERGY COMMISSION
MINUTES OF THE 149TH AEC-MLC CONFERENCE ()

Note by the Secretary

1. The attached draft Minutes of the 149th AEC-MLC Conference held on December 2, 1965, are proposed for approval at the 150th AEC-MLC Conference scheduled for December 12, 1966.
2. The attached Minutes were approved by the Commission at Meeting 2180 on March 18, 1966, and by the MLC on March 29, 1966.

W. B. McCool
Secretary

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MARCH 2, 1966 - I

ATOMIC ENERGY COMMISSION
149th AEC-MLC CONFERENCE

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Thursday, December 2, 1965, 11:25 a.m., Room 4-E-442
The Pentagon

Commissioners

Glenn T. Seaborg, Chairman
James T. Ramey
Gerald F. Tape

General Manager

R. E. Hollingsworth

General Counsel

Joseph F. Hennessey

Secretary

W. B. McCool

Staff

William C. Bartels
Edward J. Bloch
Irvin C. Bupp
Brig. Gen. D. L. Crowson
Col. Harry F. DeArment
Arnold R. Fritsch
John C. Hoyle
Dwight A. Ink
Charles L. Marshall
Ragnwald Muller
James R. Yore

Military Liaison Committee

Mr. W. J. Howard, Chairman
Maj. Gen. Arthur C. Agan, Jr., USAF
Maj. Gen. Austin W. Betts, USA
Maj. Gen. Otto J. Glasser, USAF
RAdm. Francis D. Foley, USN
Brig. Gen. Donald G. Grothaus, USA
Capt. Harry B. Hahn, USN

MLC Staff

Col. Sidney C. Bruce, USAF
Col. William H. Innes, USA
Col. H.V. Scarborough, Jr., USMC
Lt.Col. L. F. Brown, USA
Maj. E. J. Shattuck, Jr., USAF

Department of Defense

Lt.Gen. Harold C. Donnelly, USAF
Brig.Gen. Kenneth F. Dawalt, USA
Col. Norbert J. Oswald, USAF
Capt. Norman E. White, USN
Col. Wilmer K. Benson, USA
Col. M.F. Moucha, USA
Col. Edward F. Byers, USAF
Col. Frederick F. Hart, USAF

Lt.Col. John E. Kuffner, USA
Lt.Col. A.W. Knight, Jr., USA
Maj. G.B. Chamberlin, Jr., USAF
Mr. Richard Durham
Mr. George MacClain
Mr. Walter T. Skallerup, Jr.
Mr. Jack L. Stempler
Mr. C.V.M. Williamson

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1. Minutes of 148th Joint AEC-MLC Conference

The Commissioners and the members of the MLC approved the Minutes of the 148th Joint AEC-MLC Conference.

2. Discussion of Revisions to U.S.-U.K. Classification Guide

Mr. Howard said General Betts would be the Committee's spokesman on the issues relating to CG-W-2, "US/UK Nuclear Weapons Classification Guide (W-2)".

General Betts noted some disagreement had arisen between AEC and DCD staffs in connection with the DOD comments on W-2. It was the MLC's desire that a discussion of these specific differences be based upon the objective of furthering the national interest in protecting sensitive information. This objective seemed to General Betts to be clearly more important than a particular interpretation of the requirements of the Atomic Energy Act. He recalled the proposal by the DCD in 1961 to trans-classify certain information relating to the military use of nuclear weapons. It had been judged at the time that there probably was insufficient justification to support the proposal in view of its questionable compatibility with the Atomic Energy Act. Nevertheless, in reviewing W-2, the MLC had returned to the 1961 principles and had again considered possible methods of more rationally serving the national interest in this area. An important consideration had been the differences between the weapons situation in 1961 and the situation at present. Of significance was that a great many more weapons were available to the services today than in 1961. This implied that the pertinent considerations in the 1961 proposal were even more compelling today. In this regard it was the Department's

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view that the purpose of a special label such as "Restricted Data" was to flag for personnel at all command levels a body of information the extreme sensitivity of which they must at all times be aware. It was, however, necessary to relate these considerations to the operational requirements of the Services. For example, it seemed wholly unrealistic to expect a training instructor to memorize a 75-80 page classification guide. To avoid this the DOD would like to separate data relevant to the design of nuclear weapons from other information of a more strictly military nature. Such a separation would accomplish two objectives. First, it would permit the government tightly to control that portion of nuclear weapons information the sensitivity of which was clearly extraordinary. Second, it would lead to an information control procedure more responsive to operational requirements. In light of these objectives, the MLC had considered the proposed W-2 something of a retrogression from the principles established in CG-W-1. It had therefore been decided to use the guide as a vehicle to register the Department's views on the general subject of classification.

General Betts cited as examples of the type of information the Committee believed should be removed from the present "Restricted Data" category; data relating to the number of warheads in a given re-entry vehicle, the number of bombs carried in a particular aircraft, the fusing of weapons, and the accuracy anticipated from a given weapons system. In conclusion, General Betts stressed his belief that if the Commission and the DOD could agree that nuclear weapon design data was the type of information for which especially

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stringent control was necessary, there would be relatively few specific items in the "gray area" between such data and information of a more purely military character.

Chairman Seaborg said it appeared that the problems AEC staff had encountered in reviewing the DOD comments on W-2 had originated with the "gray area" items. For example, he understood that one of the DOD's recommendations related to the classification of the chemical form of tritium in weapons. It was probably arguable whether this constituted significant design information. General Betts agreed this was a good example of a "gray area" item. He saw no reason, however, why the two agencies could not negotiate their differences over this and similar items.

Chairman Seaborg said it would be important for AEC to have a clear picture of the advantages DOD believed would accrue to it through AEC acceptance of the Department's comments on W-2. General Betts said the most important advantage would be the ability effectively to label and tightly to control a category of highly sensitive information. The present formulation of the Restricted Data concept did not appear compatible with such control. General Betts stressed that transclassification of certain information from the "Restricted Data" category should not be taken to imply a lessening in the protection afforded this information. For example, data relating to fusing of nuclear weapons systems would not, under the DOD proposal, continue to be Restricted Data. It would, though, still be handled as extremely sensitive information. Thus, fusing data for the Honest John

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was, and would continue to be, given protection far beyond what might ordinarily be implied by the "Secret" label.

Mr. Howard spoke to the tritium example noted by Chairman Seaborg. There were literally thousands of personnel in the Services with a legitimate need-to-know that gaseous tritium was associated with nuclear weapons. These included firefighting personnel on air bases and the crews of Polaris submarines. The Restricted Data "intelligence perimeter" was therefore enormously widened by this one piece of information and the utility of the label as the sign of a highly privileged type of information was accordingly devalued.

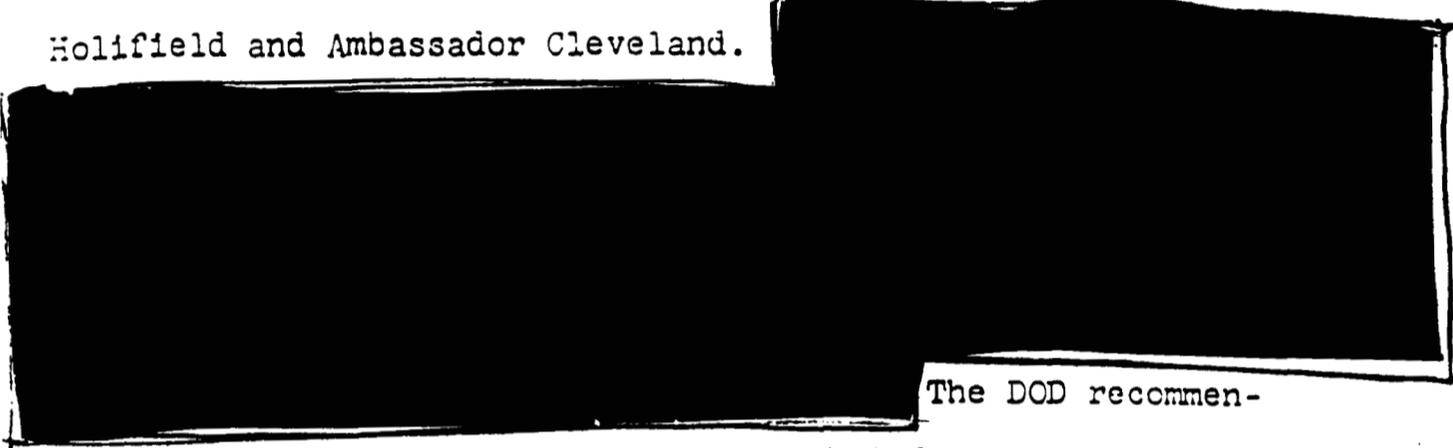
Chairman Seaborg asked about the legal rationale for the DOD's comments on W-2. General Betts said the DOD would prefer to return to the principles and precedents established with W-1. It seemed to the MLC that precedents had in fact been established with the latter for somewhat relaxing the current interpretation of the concept of "utilization".

Commissioner Tape asked if the MLC believed all the DOD's comments on W-2 were compatible with the Atomic Energy Act. General Betts said the Department's objectives could probably not be entirely accomplished without amending the Act. Nevertheless, the difference between what could be accomplished without changing the Act and that which would require an amendment was probably marginal and the precedents established with W-1 should prove useful.

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Commissioner Ramey asked if the W-1 example had been used as a precedent in the recent discussions between Mr. Howard and the Joint Committee staff. Mr. Howard, noting that he had discussed these issues with Joint Committee members and staff on three occasions, said he had not used W-1 as a precedent. Mr. Howard went on to note that he had been present at discussions in Paris between Congressman Holifield and Ambassador Cleveland.

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The DOD recommendations would permit transmittal of such information. It had been Mr. Howard's impression that Congressman Holifield had been favorable to these suggestions. Mr. Ink said it was his feeling that Congressman Holifield's law tended more in the direction of declassification than trans classification.

In answer to a question by Commissioner Tape, Mr. Marshall said General Betts was correct in noting that certain information had been trans-classified in connection with W-1. Mr. Marshall discussed the history of the 1961 DOD proposal. In his view, AEC had in the past been as flexible as possible within what it believed to be statutory requirements regarding the classification of nuclear weapons information. The DOD comments on W-2 had, however, appeared to be plainly incompatible with the Atomic Energy Act. There was further general discussion during which General Betts stressed his belief that these issues should be approached in terms of how data should be controlled so as best to serve the national interest.

Commissioner Ramey observed that agreement on this objective would not necessarily resolve all the differences between the two agencies. There might, for example, be legitimate dispute over the question of whether the number of warheads in a single^{1/} weapon system constituted design information. Mr. Howard said although this may or may not be termed "design" information, it clearly was not the sort of information that would assist Israel, for instance, in becoming a nuclear power. Commissioner Ramey agreed, but said it could be argued that the prevention of proliferation had not been the only reason for the development of the Restricted Data category.

General Betts commented again on a point he had raised previously. In some instances, the AEC recommendations in W-2 appeared to him to be a retrogression from the principles established in W-1. For example, in W-2, AEC had proposed that fusing information be classified "Formerly Restricted Data". In W-1 such information had been neither Restricted Data nor Formerly Restricted Data. During the ensuing discussion on this example, Mr. Howard indicated his belief that it was insufficient to attempt to justify a particular classification action on the basis of past action. Situations changed, statutes did not. Thus, at one time the size of the nuclear weapons stockpile had been a direct indication of the Atomic Energy Commission's production capacity. This relation no longer pertained. The present size of the weapons stockpile in Europe reflected only military decisions. While this information should doubtless continue to be classified and probably even continue to be classified Top Secret, it was manifestly not Restricted Data.

1/ Commissioner Ramey

Commissioner Ramey noted the traditional Joint Committee concern that material trans-classified from Restricted Data or Formerly Restricted Data to Defense Information would be subject to less stringent control. Mr. Howard observed that a lessening of the degree of control exercised over Restricted Data could result simply from growth in the amount of information included in the category.

Chairman Seaborg said it appeared that in order to resolve the differences between the DCD and the AEC, it would be necessary closely to examine each of the "gray area" items. It seemed to him that the most useful method of proceeding would be for AEC and DCD staffs to address themselves to these borderline cases, making an effort formally to set out the advantages and disadvantages of trans-classification.

Mr. Howard said most of the "gray area" cases were already in the FRD category. He reiterated that the strongest argument in support of trans-classification was that which focused upon the number of people to whom certain information was necessary.

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If, however, the U.S. elevates it to CFRD, this requirement alone introduces substantial numbers of personnel into the Restricted Data Intelligence perimeter.

General Betts referred to Chairman Seaborg's remarks about the most useful method of proceeding from this point. It seemed to him that, first, agreement had to be reached on the object of the exercise. AEC and DOD staffs were presently working at cross purposes. Mr. Howard agreed.

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General Glasser spoke to an example from his experience of a classification matter with substantial operational implications. Data relating to the design of Minutemen re-entry vehicles had traditionally been classified Defense Information. Recently it had been suggested that such data should become RD. Trans-classification in this direction would cause severe operational problems.

Further general discussion followed, during which Mr. Ink noted that Mr. Howard had discussed these issues on several occasions with the Commission and the Commission's senior staff. Mr. Ink believed the AEC was in substantial agreement with both the principles supported by Mr. Howard and his formulation of the problems being created by current practices. Nevertheless, it seemed to him that the two agencies were at something of an impasse unless progress could be made on the specific items over which there was disagreement. With respect to the question of the classification of numbers of atomic weapons, the two agencies were probably in agreement that this was an area needing reexamination. Other matters were less clear; some of the DCD comments touched upon items which were quite close to being sensitive design information. Mr. Ink agreed that the classification guide probably was the most convenient vehicle for seeking resolution of these disagreements. In this regard, AEC staff had not completed its review of the DCD comments. Upon completion of this review, staff would discuss W-2 in depth with the Commission.

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Mr. Marshall offered his views on the issues separating the two agencies. In his opinion the classification of topics related to numbers of weapons, locations, and yields, probably should be reconsidered. AEC staff had advised DOD in this regard in 1961. He thought the only remaining major question was whether the Atomic Energy Act would have to be amended in order to implement the DOD's recommendations on W-2. It was his view that amendment would be necessary.

There was further discussion of the re-entry vehicle example, during which Mr. Howard observed that if design changes in re-entry vehicles were dictated by classification requirements, the relevant statutes were performing a distinct disservice to the national interest.

Commissioner Tape did not believe the basic goals to be achieved through classification were, in fact, at issue. The only issue was, as Mr. Marshall had suggested, over the question of how best to implement these goals. Commissioner Tape asked whether the DOD had specific commitments to the Joint Committee as a result of Mr. Howard's discussions with the staff. Mr. Howard said the Chairman of the JCAE's Security Subcommittee had indicated a desire to review the details of the DOD recommendations on W-2. JCAE staff had been provided a copy of the DOD letter which transmitted W-2 to AEC. They had not as yet been provided copies of the proposed guide.

Mr. Ink offered the opinion that the Joint Committee probably would not have great difficulty with proposals relating to de-classification of numbers, yields, and locations of weapons.

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Mr. Howard recalled the issue that had arisen some time ago over the AEC's desire completely to declassify the location of NSS's and OSS's. The Joint Chiefs, at the time, had believed this information should remain classified Confidential/Defense Information. However, because of certain requirements in the Atomic Energy Act, it had been impossible to trans-classify the data in the desired manner. Mr. Hennessey noted the provisions of Section 142d of the Atomic Energy Act and recalled the legislative history of these provisions.

Mr. Stempler said the crux of the entire classification problem was the sensitivity of the Joint Committee to matters within its area of jurisdiction. Although the Joint Committee would perhaps currently be more receptive to modifications affecting its jurisdiction than it had been in the past, the resistance of the Committee to such modifications remained the major stumbling block. Mr. Ink believed the JCAE probably would concur with proposals involving numbers, yields, and locations. Beyond this he would hesitate to predict whether the Joint Committee would accept the DOD proposals.

There was further brief comment of related matters during which Chairman Seaborg stressed his view of the importance of moving ahead with this matter. He noted AEC staff would complete its analysis and would submit relevant recommendations to the Commission.

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2. Report on Weapons Production

General Crowson introduced Colonel DeArment of the Division of Military Application, and said he would review for the Commission and the members of the MLC, the production status through November 1965 of the weapons and devices currently being manufactured by the AEC.

Using a series of illustrative graphs and charts, Colonel DeArment compared actual and scheduled production of the following: W-28-Y5, W-44, W-50, W-52, W-55, B-57, W-58, BA-43, W-45, W-48, MK-53, B-54, and W-56-2.

There was brief discussion of the status of the MK-28 Y-5, Colonel DeArment assured the MLC that all problems had now been rectified. Colonel DeArment invited the attention of the Commissioners and the members of the MLC to a chart summarizing the production status of all weapons currently being fabricated. In reviewing the data reflected on this chart, he noted that although the following devices were behind schedule: MK-58, MK-56, MK-55, MK-54, MK-53, and MK-43, no major problems were currently being encountered. Finally, Colonel DeArment noted his office had been informed of the possibility of an increased requirement for MK-58 weapons from the Navy.

The Chairman and Mr. Howard thanked General Crowson and Colonel DeArment for the presentation.

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3. Date of 150th Joint Conference

The Commissioners and the members of the MLC agreed the date for the 150th Joint AEC-MLC Conference should be determined by the Executive Secretary, MLC, and the Secretary, AEC.

Sidney C. Bruce
Executive Secretary
Military Liaison Committee

W. B. McCool
Secretary to the Commission

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