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ID	Doc Type	Document Description	No of Pages	Doc Date	Restrictions
210491	NSC DISTRIBUTION RECORD		1	7/3/1984	B1
	PAR	9/1/2017			NLR-753-112-4-1-2
210492	NSC DISTRIBUTION RECORD		1	7/3/1984	B1
	PAR	9/1/2017			NLR-753-112-4-2-1
210493	NSC DISTRIBUTION RECORD		1	7/3/1984	B1
	PAR	9/1/2017			NLR-753-112-4-3-0
210494	MEMO	MCFARLANE TO SEC WEINBERGER RE TERRORISM	2	7/3/1984	B1
210499	PAPER	RE ANALYSIS OF RETRANSFER (INLCUDES TABLE OF CONTENTS AND APPENDICES)	14	6/1/1984	B1

The above documents were not referred for declassification review at time of processing

Freedom of Information Act - [5 U.S.C. 552(b)]

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210495 MEMO	JAMES SHEA, DIRECTOR OF OFFICE OF INTERNATIONAL PROGRAMS, NUCLEAR REGULATORY COMMISSION, TO ASST. SEC DR. HELMUT MERKLEIN,DOE, RE MEMORANDUM	3	6/15/1984	B1
210496 MEMO	NORTH, FORTIER TO MCFARLANE RE TERRORISM	1	7/2/1984	B1
210501 NSC ROUTING SLIP	NOTE FROM POINDEXTER	1	ND	B1
210497 DRAFT MEMO	P. 2 ONLY	1	ND	B1

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SUBJECT: PROTECTION AGAINST TERRORIST THREAT TO NUCLEAR MATERIAL MOVEMENT

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<i>ID</i>	<i>Document Type</i> <i>Document Description</i>	<i>No of</i> <i>pages</i>	<i>Doc Date</i>	<i>Restric-</i> <i>tions</i>
210494	MEMO MCFARLANE TO SEC WEINBERGER RE TERRORISM	2	7/3/1984	B1

Freedom of Information Act - [5 U.S.C. 552(b)]

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210499	PAPER RE ANALYSIS OF RETRANSFER (INLCUDES TABLE OF CONTENTS AND APPENDICES)	14	6/1/1984	B1

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210495 MEMO

3 6/15/1984 B1

JAMES SHEA, DIRECTOR OF OFFICE OF
INTERNATIONAL PROGRAMS, NUCLEAR
REGULATORY COMMISSION, TO ASST. SEC DR.
HELMUT MERKLEIN,DOE, RE MEMORANDUM

Freedom of Information Act - [5 U.S.C. 552(b)]

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29
DRAFT

Department of Energy
Washington, D.C. 20585

DECLASSIFIED
NLR 753-
Authority 112-4-6-7
CN NARA DATE 9/1/17

Mr. James R. Shea
Director, Office of International Programs
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Dear Mr. Shea:

This is in reference to your letter of June 15, 1984, and the Nuclear Regulatory Commission (NRC) comments regarding the proposed retransfer of 189 kilograms of fissile plutonium from France to Japan for use as fuel in the experimental fast breeder reactor, JOYO.

The Department of Energy (DOE) notes the NRC's agreement that this retransfer meets the statutory standard, set forth in Section 131b.(2) of the Atomic Energy Act, that the "retransfer will not result in a significant increase of the risk of proliferation beyond that which exists at the time that approval is requested." As required by Section 131, notice of the proposed retransfer will be published in the Federal Register and a report submitted to the appropriate congressional committees.

While this retransfer, as agreed, will not result in a significant increase in the risk of proliferation, we are concerned that the NRC questions whether DOE had given foremost consideration to timely warning. A careful reading of the analysis of this case establishes that foremost consideration was given to timely warning. As discussed in our analysis, effective International Atomic Energy Agency (IAEA) safeguards are being applied at the facilities where the plutonium will be located. In addition, we frequently consult with the Japanese on safeguards and physical security and both of us work with the IAEA to improve the application of safeguards to plutonium handling facilities.

Even though DOE is firmly of the belief that the timely warning criterion is met in this case, we note that Section 131 allows for approval even under circumstances which do not meet that standard. This was discussed in the Senate report on the Nuclear Non-Proliferation Act (Senate Report No. 95-467, p. 12). This retransfer to Japan, a country committed to a non-nuclear weapons policy, nuclear non-proliferation worldwide, and IAEA safeguards, would clearly be acceptable even if timely warning was less certain. Moreover, as has been discussed with members of the Commission, it has

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attachment 5

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Page 2

long been our position that timely warning finding cannot, and should not, be made solely on the basis of technical considerations. Just as important, if not more so, are readily detectable factors such as significant changes in the non-proliferation posture of a country, including factors that may affect this posture such as military threats from neighboring countries. Given our close security relationship with the Japanese Government a fundamental change in their position would be readily apparent.

In regard to your request for safeguards information on the NFI (Tokai R&D) fabrication facility, it is now being safeguarded by the IAEA thru comprehensive ad hoc measures pending completion of the formal procedures which we understand are now under development.

Finally, in regard to the physical security plan, we wish to assure you that the arrangements will be reviewed and approved by the Executive Branch prior to shipment. Moreover, the contingency plan on the shipment at an appropriate level of detail and at a classification necessary to preserve its secrecy, will be provided to the NRC. As you know, the overall transportation arrangements exceed international standards and involve an armed force on the ship, constant communication with watch officers in Japan, and an appropriate response force.

As always, the DOE appreciates the serious concern which the NRC brings to these matters.

Sincerely,

Dr. H. A. Merklein
Assistant Secretary
for International Affairs
and Energy Emergencies

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National Security Council
The White House

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John Poindexter	21		A
Tom Shull			
Wilma Hall			
Bud McFarlane			
Bob Kimmitt			
NSC Secretariat	4	JUL 03 1984	D
Situation Room			

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R = Retain

D = Dispatch

N = No further Action

cc: VP Meese Baker Deaver Other

JUL 03 1984
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210496	MEMO NORTH, FORTIER TO MCFARLANE RE TERRORISM	1	7/2/1984	B1

Freedom of Information Act - [5 U.S.C. 552(b)]

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TAB

II



34

THE SECRETARY OF ENERGY
WASHINGTON, D.C. 20585

Honorable Charles H. Percy
Chairman, Committee on
Foreign Relations
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2160, notice is hereby given of a proposed subsequent arrangement under the Additional Agreement for Cooperation between the United States and the European Atomic Energy Community and the Agreement for Cooperation between the United States and Japan.

The subsequent arrangement to be carried out under the above mentioned agreements involves approval of the transfer of 189 kilograms of fissile plutonium from France to Japan for use as fuel in the experimental fast breeder reactor, JOYO.

The Japanese physical security plan exceeds the relevant international and NRC standards. Final details regarding implementation of the plan will be reviewed and approved by the Office of the Joint Chiefs of Staff, the U.S. Coast Guard, and the Department of Energy before the shipment.

It has been determined that the transfer of the plutonium referred to above will not be inimical to the common defense and security (Section 131.a(1) of the Act). Also, for the reasons set forth in our analysis (Enclosure 1), the Department of Energy, the Department of State, the Department of Defense, and the Arms Control and Disarmament Agency favor approval of the proposed transfer, with the expectation that certain remaining details for implementing the Japanese physical security plan will be resolved. The Nuclear Regulatory Commission (NRC) agrees with our finding that the retransfer will not result in a significant increase in the risk of proliferation. The NRC expressed certain reservations which are contained in their letter to us (Enclosure 2). Also attached is our reply to the NRC (Enclosure 3). The Department of Commerce has no objection to the proposed transfer.

Attachment 1

35

This letter of transmittal, together with the enclosures, constitute the report to the Committee on Foreign Relations of the Senate required by Section 131 of the Act. Also, as required by the Act, an identical report has been provided to the Committee on Foreign Affairs of the House of Representatives.

Sincerely,

DONALD PAUL HODEL

3 Enclosures

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TAB

III



37

THE SECRETARY OF ENERGY
WASHINGTON, D.C. 20585

Honorable Dante B. Fascell
Chairman, Committee on
Foreign Affairs
House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2160, notice is hereby given of a proposed subsequent arrangement under the Additional Agreement for Cooperation between the United States and the European Atomic Energy Community and the Agreement for Cooperation between the United States and Japan.

The subsequent arrangement to be carried out under the above mentioned agreements involves approval of the transfer of 189 kilograms of fissile plutonium from France to Japan for use as fuel in the experimental fast breeder reactor, JOYO.

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Attachment 2

38

This letter of transmittal, together with the enclosures, constitute the report to the Committee on Foreign Affairs of the House of Representatives required by Section 131 of the Act. Also, as required by the Act, an identical report has been provided to the Committee on Foreign Relations of the Senate.

Sincerely,

DONALD PAUL HODEL

3 Enclosures

National Security Council
The White House

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Dep. Exec. Sec'y	<u>1</u>	<u>✓</u>	
Bob Kimmitt	<u>2</u>	<u>✓</u>	
John Poindexter			
Tom Shull			
Wilma Hall	<u>Retype 2nd</u>		
Bud McFarlane	<u>page of Tab I.</u>		
Bob Kimmitt			<u>✓</u>
NSC Secretariat			
Situation Room			
<u>North</u>	<u>3</u>		<u>✓</u>

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N = No further Action

cc: VP Meese Baker Deaver Other _____

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The White House

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Wilma Hall			
Bud McFarlane			
Bob Kimmitt			
NSC Secretariat			
Situation Room			
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210501	NSC ROUTING SLIP NOTE FROM POINDEXTER	1	ND	B1

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210497	DRAFT MEMO P. 2 ONLY	1	ND	B1

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