

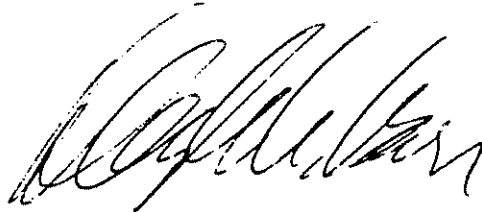
Sandia National Laboratories

Albuquerque, New Mexico 87185

date: **November 3, 1988**

to: **Distribution**

3180 NA 88/241
File: 14.040



from: **Douglas A. Barr, Coordinator
Export Control Coordinator's Organization (ECCO)**

subject: **Charter Meeting of the Export Control Coordinator's
Organization (ECCO), October 6-7, 1988**

Enclosed are the proceedings of the subject meeting and a group photograph. Requested copies of speaker's handouts and vugraphs will be sent under separate cover.

Again, I want to extend my appreciation and thanks for the help and cooperation of all who participated in this Charter meeting.

DAB:3180:tcb
(881101)

- Enc: 1. Proceedings of Charter Meeting of ECCO
2. ECCO Charter Group Photograph

Distribution:

Mr. Zan Hollander
U.S. Department of Energy
Office of Classification &
Technology Policy
Export Control Branch, DP323.1
P. O. Box A
Germantown, MD 20874

Ms. Donnie Martin
U.S. Department of Energy
IPS/AL
P. O. Box 5400
Albuquerque, NM 87115

Mr. Bill Layne
U.S. Department of Energy
Albuquerque Operations Office
Safeguards & Security/CS
P. O. Box 5400
Albuquerque, NM 87115

Mr. Richard Fredlund
U.S. Department of Energy
Livermore Site Office
Lawrence Livermore National Lab
L-320
P. O. Box 808
Livermore, CA 94550

Mr. Dan Crouter
U.S. Department of Energy
Richland Operations Office
MS A5-90
P. O. Box 550
Richland, WA 99352

Mr. Gordon Longerbeam
Lawrence Livermore National Lab
Mail Stop L-795
P. O. Box 808
Livermore, CA 94550

Mr. Charles Seymour
Lawrence Livermore National Lab
Mail Stop L-490
P. O. Box 808
Livermore, CA 94550

Mr. Marty Simpson
Lawrence Livermore National Lab
Mail Stop L-703
P. O. Box 808
Livermore, CA 94550

Ms. Sharon Eklund
Los Alamos National Laboratory
IT-3, MSB-231
P. O. Box 1663
Los Alamos, NM 87545

Mr. Mark Jones
Los Alamos National Laboratory
OS-6, MSF-674
P. O. Box 1663
Los Alamos, NM 87545

Mr. Jim Mitchell
Los Alamos National Laboratory
MSA-187
P. O. Box 1663
Los Alamos, NM 87545

Mr. Ron Haynes
Fermi National Lab
MS213
P. O. Box 500
Batavia, IL 60510

Mr. William A. Schmidt
Fermi National Labs
MS213
P. O. Box 500
Batavia, IL 60510

Ms. Margaret Bogosian
Brookhaven National Lab
Building 355
Upton, NY 11973

Mr. Paul Betten
Argonne National Lab
9700 South Cass Avenue
Argonne, IL 60439

Mr. Robert Mulcahy
Lawrence Berkeley Laboratory
1 Cyclotron Road
Building 50A, Room 6140
Berkeley, CA 94720

Mr. Alan Rither
Battelle Pacific Northwest Lab
P. O. Box 999
Mail Stop K-67
Richland, WA 99352

Ms. Marilyn Daniel
Mason & Hanger
200 West Vine
Suite 7
Lexington, KY 40507

Mr. Stan Berglin
Westinghouse Hanford Co.
B4-04
P. O. Box 1970
Richland, WA 99352

Mr. Philip Ayers
EG&G
Mound Applied Technologies
15 East Linden Avenue
Miamisburg, Ohio 45342

Mr. Leo Kelly
EG&G, Inc.
45 William Street
Wellesley, MA 02181

Ms. Karin Rindal
EG&G, Inc.
1050 Connecticut Avenue, NW
Washington, DC 20036

Mr. Keith Lake
Allied-Signal, Inc.
Bendix Kansas City Division
Department 811, Mail Code 2E50
P. O. Box 619159
Kansas City, MO 64141-6159

Mr. Bruce Winchell
Martin Marietta Energy Systems,
Inc.
P. O. Box 2009
Oak Ridge, TN 37831-8014

Copy to: (w/enc #1)
J. A. Rooney, OCTP, DP323
C. P. Demos, DOE/AL/SS/CS
D. Wong, DOE/SAN
W. A. Whitesell, LLNL
S. J. Augustson, LANL
1231 - J. R. Lee
3100 - L. H. Pitts
3180 - R. B. Craner
4030 - G. W. Kuswa
4030 - J. D. Corey
4050 - K. C. Olsen
3180 - D. A. Barr

October 6, 1988

AGENDA

NATIONAL LABORATORIES EXPORT CONTROL CONFERENCE

October 6-7, 1988

Thursday, October 6, 1988

- 1:00 p.m. Arrival; Badging
- 1:30 Welcoming Remarks: Craner (Sandia)
Barr (Sandia)
- 2:00 Organizational Meeting
- 3:15 Break and Snacks
- 3:30 Group Photo - "Charter NLECC Meeting"
- 4:00 Adjourn

Friday, October 7, 1988

- 8:45 a.m. Reconvene conference, coffee & donuts
- 9:15 Speaker (Barr: Sandia's Export Control Program)
- 10:15 Break and Discussion
- 10:45 Speaker (Rither: Export Control at Battelle Pacific Northwest Laboratories)
- 11:30 Lunch (on your own)
- 1:00 p.m. Speaker (Rindal: Export Control at EG&G)
- 1:30 Open Discussion (or video viewing)
- 2:00 Speaker (Winchell: Export Control at Oak Ridge National Laboratory)
- 2:30 Break and Organizational Discussions (topics, speakers and date of next conference)
- 3:45 Adjourn

November 3, 1988

Proceedings of the Charter Meeting
of the
Export Control Coordinator's Organization
(ECCO)

October 6-7, 1988

Introduction

On October 6 and 7, 1988, the charter meeting of the Export Control Coordinators Organization (ECCO) occurred at Sandia National Labs in Albuquerque, New Mexico. The following people attended:

<u>Name/Title</u>	<u>Facility/Phone #</u>
Stan Berglin Intellectual Property Admin.	Westinghouse Hanford Co. (509) 376-2788 (FTS 444)
Paul Betten Program Manager	Argonne National Lab (312) 972-5361
Margaret Bogosian Patent Counsel	Brookhaven National Lab FTS 666-7338
Dan Crouter Technology Transfer Officer	DOE/Richland (509) 376-3562 (FTS 444)
Sharon Eklund Critical Technologies, Asst. Group Leader	Los Alamos National Lab FTS 843-6922
Dick Fredlund Technical Programs Manager	DOE/SAN FTS 543-3022
Zan Hollander Office of Classification and Technology Policy	DOE, OCTP (Washington, DC) FTS 896-2125
Mark Jones Classification Analyst	LANL FTS 843-5011
Bill Layne Sensitive Information Analyst	DOE/AL FTS 846-3298

November 3, 1988

Gordon Longerbeam Technology Transfer, Program Leader	LLNL FTS 532-6416
Donnie Martin Technical Information Officer	DOE/AL (505) 846-3301
Jim Mitchell Senior Counsel	LANL FTS 843-3766
Karin Rindal Intl. Trade Regulations Mgr.	EG&G (202) 887-5570
Alan Rither Senior Counsel	Battelle Pacific Northwest Lab (509) 375-2218
Charles Seymour ICF Program Manager	LLNL (415) 422-3557
Marty Simpson Patent Counsel	LLNL FTS 532-7274
Bruce Winchell Patent Counsel	MMES, Inc. FTS 626-6883
Richard Craner Classification Officer	SNLA (505) 844-5639
Robert Duff Classification Analyst	SNLA (505) 846-2918
Douglas Barr Coordinator, ECCO	SNLA (505) 844-8683
Fran Sanchez-Conroy Technology Security Asst.	SNLA (505) 846-3498
Fran Armijo Technology Transfer Asst.	SNLA (505) 846-9958
Kurt Olsen Patent Counsel	SNLA (505) 846-8492

The Agenda is included as Attachment I.

Procedural Issues Resolved

- (1) The name of our organization will be: Export Control Coordinators Organization (ECCO). This was decided to allow a broad range of participants, without excluding any of the DOE community.

November 3, 1988

- (2) Douglas A. Barr will remain coordinator of ECCO for the next year.
- (3) A charter was agreed upon and is included as Attachment II.
- (4) The next ECCO conference will be held in April 1989, at Battelle Pacific Northwest Laboratories in Richland, Washington. Alan Rither will host the conference. It will be held in an unclassified location and will be open to any members, whether or not they have "Q" clearances.
- (5) During and after the conference, some members expressed a desire to have a "mini-meeting" in January 1989. They thought that the charter meeting generated considerable momentum, which needs to be followed up, and that some substantive issues, which were either not addressed or not fully discussed, should be raised earlier than April, 1989.

For example, the subject of foreign visits and visitors, their access to export controlled technical data, and the types of technical data possibly subject to export was mentioned as particularly timely and in need of airing. Rather than a "mini-meeting," it might be best to encourage whatever "local" meetings are believed necessary and helpful among whomever has this need, on an informal basis, until the next scheduled meeting in April. At that time, participants could share the results of these prior informal meetings.

- (6) A group photo was taken and is included herein.
- (7) Future topics and speakers will be decided by the Coordinator and local respective host. Any suggestions are welcomed.
- (8) Copies of the speakers' requested handouts and vugraphs will be sent separately.

Substantive Issues Discussed

The conference proceeded in an informal atmosphere of open and lively discussions, sometimes controversial but always productive. A majority agreed that we all need more knowledge about what unclassified information should be export controlled and how to do so.

The members shared a variety of experiences with the export control of hardware and technical data. Some members have well-defined internal compliance programs for the routine export control and licensing of hardware or technical data. Others have not yet substantively addressed export control problems to any significant degree. Most agreed that the internal procedures and cost of export control were troublesome.

Some disagreement was voiced over the effectiveness of export control, and the ability to integrate other national concerns, such as technology transfer and commercialization. Zan Hollander, Alan Rither and Dick Fredlund, for example, believe that technology transfer, commercialization and export control complement each other. Others disagreed, thinking that these national goals conflict and cannot simultaneously be attained.

Most agreed that, historically, the various involved government agencies have emphasized the enforcement of the export regulations over hardware, while minimizing the export control of technical data. Congressional intent previously tended to focus on the export control of hardware sold to foreigners by domestic commercial companies. But, the recent trend has been to also more carefully monitor and control the export of technical data.

While the licensing of hardware exports has not always proceeded smoothly, it was viewed with less confusion, uncertainty and disagreement than the control of technical data. When analyzing the export control of technical data, fundamental precepts were questioned and hazy distinctions were noted. For example, where do we draw the line between basic knowledge and specific details?

Finally, highlights of the formal presentations, (on the agenda), are summarized in the following paragraphs.

Douglas Barr (Sandia National Laboratories)

Sandia's export control program has primarily focused on researching and understanding the intricacies of the export control of unclassified technical data. A wider awareness within Sandia of this important field has recently begun, in addition to selective export control marking of published reports.

Although some of the actions taken by other DOE contractors and private industry, such as Letters of Assurance, may be instituted at some time, Sandia's predominant efforts center on defining "working lists" of export controlled information

November 3, 1988

(ECI). The goal is to attain a balancing of the competing national interests of the scientific need to publish, versus the potential and actual harm to the nation by releasing to foreigners our most advanced technological advancements.

Sandia, as do the other DOE National Laboratories, generates a tremendous volume of diverse scientific and technical information, by oral, written and electronic media. To draft these "working lists" of ECI, Sandia attempts to coordinate the following sometimes - conflicting legislative and administrative requirements and motivations:

1. The various export regulations, statutes and amendments.
2. DOE's emerging ECI guidelines.
3. Program managers' individual viewpoints and knowledge about the sensitivity of technical advancements in different fields.

Alan Rither - Battelle Pacific Northwest Laboratories ("PNL") - Battelle operates both PNL, a DOE ER lab, and BNW, a private lab. They, thus, have both the commercial and the non-profit government export problems. They use a positive reinforcement method to encourage employees to comply with the export laws, by letting royalties from licensing flow back to the staff. It is, thus, in the staff's best interest to properly export control technical data, or else optimal technology transfer will not occur. If technology transfer does not occur, licenses will not be granted and royalties will not flow back to the staff. Seen in this way, export control becomes an adjunct to technology transfer.

Foreign requests for PNL reports are measured by the amount of height, in feet, of the stack that piles up daily. On occasion, this necessitates considerable analysis and discussion with the authors, before deciding which reports should be export controlled and to which destination, per the Government's country grouping of sensitive nations (DOE and DOC).

Export warning notices and letters of assurance are routinely used for the appropriate reports, to prevent OSTI from sending these to NTIS, and to protect PNL. In addition, they use "Estoppel Letters" on DOD flowthrough work to shift the burden of responsibility to the DOD program managers when they have not provided the required guidance on authorized distribution and export control.

November 3, 1988

Karin Rindal - EG&G - As a private corporation with 24,000 employees and many government contracts, EG&G carefully and routinely complies with all government export regulations. Technical data exports are monitored by export control coordinators at each EG&G branch.

Within EG&G's export control internal compliance program, ("ICP"), exists an exhaustive high-risk profile of suspicious requests and a watch list of requestors. The latter is modeled after, but more extensive than, the Commerce Department's Table of Denial Orders. Competition from illegal foreign sales motivates EG&G to fully comply with the export laws.

Simultaneously (and carefully), EG&G negotiates technology transfer agreements with foreigners. Frequently, Karin conducts export presentations among different EG&G divisions, to increase awareness and consistency.

Bruce Winchell - Martin Marietta Energy Systems, Inc. (MMES) ("MM") - MM operates several facilities including Y12, Oak Ridge National Laboratories ("ORNL"), and Gaseous Diffusion Plants in Oak Ridge, TN, Paducah, KY and Portsmouth, OH. Export control is handled differently at each of these facilities.

Y-12 is a weapons plant. Its orientation, thus, encourages open publishing of the least amount of material. Its restrictions and review system include three separate reviews of all works. Technical data includes reports, presentations, patent applications, and software, in compliance with appropriate export control case law.

ORNL, on the other hand, complies with the export laws by openly publishing as much as possible, after review by three separate groups, also in compliance with the export control laws. ORNL falls under DOE orders and contractual language to publish as widely as possible, whether ORNL's publications relate to ER or other DOE-funded work. Employees at ORNL operate under the "publish or perish" syndrome, with their salaries tied to their publications. One employee was prosecuted under a federal felony indictment for acts related to failure to obtain approval for release of technical data and materials.

The company does license others using a U.S. Preference Clause and usually with appropriate export control notices. Royalties from these licenses flow back to the authors of the authorized copyrighted works licensed.

November 3, 1988

Foreign visits and visitors create a bothersome and unresolved export control problem. Approximately 20,000 of these unclassified visits/visitors occur each year. More information is needed to determine what export controlled technical data may be exposed to these visitors and how to handle this problem, from information definition and control viewpoints.

Zan Hollander - DOE/OCTP HQ - Zan distributed the October 5, 1988 draft version of DOE's interim "Guidelines on Export Controlled Information" (Guidelines). It is expected that the final version, and an Order, will be issued by Mr. Troy Wade, Actg. ASDP, on behalf of all DOE offices (DP, ER, NE, IE).

DOE's guidelines address nuclear technology, especially and in concurrence with the "Nuclear Technologies Reference Book" (NTRB). Non-nuclear, dual-use and other technical data generated by DOE Laboratories and contractors are not yet fully addressed. OCTP will review and concur with local laboratory/contractor guidelines for control of this technical data, but the primary responsibility for generation of these guidelines lies with the local program managers

Zan's understanding of OSTI's control over all published reports, abstracts and other documents is that OSTI will not distribute any documents sent to it to any organization, including NTIS, if the document is marked, "Export Controlled Information" (ECI). Also, software sent to NESG will only be disseminated in compliance with the applicable attached ECI notices.

DAB:3180:tcb
(881008)

AGENDA

Export Control Coordinator's Organization
(ECCO)
October 6-7, 1988

Thursday, October 6, 1988

- 1:00 p.m. Arrival; Badging
- 1:30 Welcoming Remarks: Craner (Sandia)
Barr (Sandia)
- 2:00 Organizational Meeting
- 3:15 Break and Snacks
- 3:30 Group Photo - "Charter NLECC Meeting"
- 4:00 Adjourn

Friday, October 7, 1988

- 8:45 a.m. Reconvene conference, coffee & donuts
- 9:15 Speaker (Barr: Sandia's Export Control Program)
- 10:15 Break and Discussion
- 10:45 Speaker (Rither: Export Control at Battelle
Pacific Northwest Laboratories)
- 11:30 Lunch (on your own)
- 1:00 p.m. Speaker (Rindal: Export Control at EG&G)
- 1:30 Open Discussion (or video viewing)
- 2:00 Speaker (Winchell: Export Control at Oak Ridge
National Laboratory)
- 2:30 Break and Organizational Discussions (topics,
speakers and date of next conference)
- 3:45 Adjourn

Attachment II

CHARTER - ECCO

Name: Export Control Coordinators Organization

- Purposes:
1. Share ideas and internal policies/procedures on the export control of unclassified scientific and technical information.
 2. Monitor and report legislative, executive and judicial changes in export laws, regulations and implementations.
 3. Recommend export policies and procedures that minimize conflicts.

Members: Those of the DOE community, including contractors and DOE itself, who are interested in export control and are invited to attend.

Meetings:

Dates - As often as needed and agreed upon by a majority of members, until January 1990; thereafter, semiannually.

Locations - Rotated among the members.

Length - As short as possible, while efficiently and thoroughly discussing all issues of membership interest.

Coordination of Meetings:

A coordinator shall serve for a one-year term. His/her duties include organizing membership meetings, setting the agenda in consultation with the members, and preparing minutes. In addition to meeting-related activities, the coordinator shall provide a channel for sharing information of common interest as may arise between meetings.

Limitation of Authority:

1. Members may decide on internal ECCO procedural matters, but not on substantive or laboratory-binding policies.

November 3, 1988

2. Although members represent their laboratories, they may not commit their organization to any specific export control actions based solely upon a position taken by ECCO.
3. A majority of the members may amend the ECCO charter at any time by formal vote.