

Sandia National Laboratories

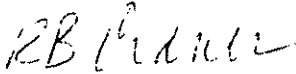
Albuquerque, New Mexico 87185

date: November 14, 1989

to: ECCO Members and Guests

3180 NA 89/305

File: 14.0101



from: R. B. Craner, Manager
Classification & Sensitive Information
Review Dept. 3180

subject: Summary Minutes of the Third ECCO Meeting

The third meeting of the Export Control Coordinators Organization (ECCO) was held October 18-19, 1989, at the Marriott Hotel in Gaithersburg, MD. The conference was held in the Washington, DC area because of the ready-availability of government and private experts in export control that could be invited as speakers. This worked out extremely well, as representatives for DOC, DOS, GAO, and private law firms spoke to the group about various aspects of export control.

The agenda was developed by, and the meeting was coordinated by Doug Barr of Sandia National Laboratories, Albuquerque. Doug did an excellent job of selecting the speakers and acting as facilitator during the two-day meeting. The speakers' subjects were timely and interesting, and lively and spirited discussion occurred during and after each presentation.

As the meeting opened, Doug announced that this would be his last conference because he had recently taken on different responsibilities at Sandia. At the end of the meeting, Jim Mitchell of LANL accepted the responsibility of ECCO Coordinator for the next year, I volunteered to summarize the proceedings of the October 18-19 meeting, and Doug Barr agreed to send thank you letters to the government and private speakers.

The next ECCO meeting is planned for sometime in the Spring of 1990; and the consensus was that it should also be held in the Washington, DC, area to help attract the right speakers. Everyone enjoyed having the meeting at the Marriott, where most of us stayed, but some suggested there may be financial advantages to holding the Spring session at DOE/Germantown or at some other convenient government location.

RBC:3180:tcb
(891012)

Encs: 1. Attendees
2. Agenda
3. Summaries of Speakers' Presentations

Distribution:

Philip Ayers, EG&G-Mound Applied Technologies
Sharon Augustson, Los Alamos National Laboratory, OS-6
Larry Bakken, University of California/Lawrence Livermore
National Laboratory, L-302
Stan Berglin, Westinghouse Hanford Company, B4-04
Paul Betten, Argonne National Lab
Margaret Bogosian, Brookhaven National Lab
Rudolf T. A. Bredderman, Lawrence Livermore National Lab,
Classification Office, L-302
Larry Christensen, US/Department of Commerce
Dale Claflin, EG&G-Idaho, Inc.
William Cliff, Battelle - PNL, P7-35
Dan Crouter, US/DOE-Richland Operations Office, MS A5-9
Steve Cunningham, Rockwell International/North American
Space Operations-Rocky Flats Plant
Ms. Marilyn Daniel, Mason & Hanger
Bill DeGarmo, Lawrence Livermore National Lab, MS L-703
Charles P. Demos, US/DOE-Albuquerque Operations Office-CIPS
Edward Dyson, Baker & McKenzie
Ms. Sharon Eklund, Los Alamos National Laboratory, IT-3,
MSB-231
Richard Fredlund, US/DOE-Livermore Site Office, Lawrence
Livermore National Lab, L-320
Frank Halasz, Sandia National Laboratories/Livermore
Ron Haynes, Fermi National Lab, MS 213
Charles Herz, National Science Foundation
Rodney B. Hoffman, Rockwell International-North American
Space Operations, Rocky Flats Plant
Zan Hollander, US/DOE-Office of Classification & Technology
Policy, DP323.1
Vance H. Hudgins, Meridian Corporation
Carl W. Huntington, EG&G-Mound Applied Technologies
Mark Jones, Los Alamos National Laboratory, OS-6, MSF-674
Leo Kelly, EG&G, Inc.
Mark Killinger, Battelle Pacific Northwest Labs
Len Koch, EG&G-Idaho, Inc.
Stella Kowal, EG&G-Idaho, Inc.
George Kuzmycz, US/Department of Commerce
Keith Lake, Allied-Signal, Inc., Bendix Kansas City Division
Mail Code 2E50
Paul Laplante, Chief, US/DOE-Office of Classification &
Technology Policy, DP-322.2
Bill Layne, US/DOE-Albuquerque Operations Office
Jeff Lenhert, US/DOE-Office of Classification & Technology
Policy, DP323.2
Gordon Longerbeam, Lawrence Livermore National Lab, MS L-795
Dennis Love, EG&G, Inc.
Donnie Martin, US/Department of Energy-IPS/AL
John Mevers, GEND, MS-055
Jim Mitchell, Los Alamos National Laboratory, MSA-187
Robert Mulcahy, Lawrence Berkeley Laboratory
Cathy Maus, US/DOE-Office of Classification & Technology
Policy, DP-322.1
Vale Myles, Brookhaven National Lab

Distribution (continued):

Edward L. Nettles, Jr., Los Alamos National Laboratory
OS-DO, MSG729
David R. Pickering, Battelle Pacific Northwest Labs, K1-49
Fred Reich, Westinghouse Hanford Company, MS L5-55
Ms. Karin Rindal, EG&G, Inc.
Alan Rither, Battelle Pacific Northwest Lab, MS K-67
Carl Robertson, US/DOE-Idaho Operations Office
J. M. Rooney, Actg. Dir., US/DOE-Office of Classification
& Technology Policy, DP323
D. L. Samples, Westinghouse Hanford Company
William A. Schmidt, Fermi National Labs, MS 213
Charles Seymour, Lawrence Livermore National Lab, MS L-490
Rod Stewart, Rocky Flats Plant
Bob de Timmerman, Deputy Chief Counsel, US/DOE-Albuquerque
Operations Office/OCC
William Whitesell, Lawrence Livermore National Labs, L-302
Bruce Winchell, Martin Marietta Energy Systems, Inc.
D. Wright, EG&G
Steve Zvacek, Allied-Signal, Inc., Bendix Kansas City
Division

3740 D. G. Hoffman
3743 J. R. Hogan
4050 K. C. Olsen
6314 D. A. Barr
9110 J. D. Corey
9119 F. Sanchez-Conroy

Copy to:

3100 L. H. Pitts
3180 J. F. Hollister
3180 D. A. Landa
4050 G. H. Libman
7290 T. S. Church
3180 R. B. Craner

ENCLOSURE I

ATTENDEES

<u>NAME</u>	<u>COMPANY</u>	<u>PHONE</u>
Edward E. Dyson	Baker & McKenzie	202-452-7004
Dick Craner	Sandia Nat'l Labs	505-844-5639
George Kuzmycz	DOC/BXA	202-377-5696
William C. Cliff	PNL/Battelle	509-376-9214
Vale Myles	BNL	516-282-3312
Rod Hoffman	Rocky Flats	303-966-4598
Dick Fredlund	DOE/SAN	415-423-3020
Carl Robertson	DOE/Idaho	208-526-0271
Dody Hoffman	Sandia Nat'l Labs	505-844-3655
Len Koch	EG&G Idaho (INEL)	FTS 583-0751
Dale Claflin	EG&G Idaho (INEL)	FTS 583-1199
Bill DeGarmo	LLNL	FTS 543-1960
Rudolf T. A. Bredderman	LLNL	FTS 543-5886
Vance Hudgins	Meridian Corporation	703-998-3600
John R. Hogan	Sandia Nat'l Labs	505-844-6933
Mark Killinger	Battelle - Pacific NW Labs	509-376-4249
Jim Noble	State	FTS 647-2245
Jim Mitchell	LANL	FTS 843-3766
Sharon Augustson	LANL	FTS 843-5011
Frances Sanchez-Conroy	Sandia Nat'l Labs	FTS 846-3498
Stan Berglin	Westinghouse Hanford Company	FTS 444-2788

William A. Schmidt	Fermi National Lab	708-840-3572
Stella Kowal	EG&G Idaho	208-526-2683
Larry E. Christensen	Commerce	202-377-5305
Chuck Herz	Nat'l Science Fd'n	301-357-9435
Doug Barr	Sandia Nat'l Labs	FTS-844-8777

ENCLOSURE II

AGENDA

ECCO CONFERENCE
October 18-19, 1989

Wednesday, October 18, 1989

- 8:30 - 9:00 Register
- 9:00 Opening - Doug Barr
- 9:30 Ed Dyson, Attorney at Law, Baker & McKenzie,
"Overview of Principal U.S. Export Controls
and Trade Sanctions"
- 10:15 Break
- 10:45 Jim Noble, DOE, Office of Nuclear Export and
Import Control, "Nuclear Referral List"
- 11:15 Larry Christensen, DOC, "National Laboratory/
Government Contractor Technical Data Under the
EAR"
- 12:00 Lunch
- 1:30 Charles Herz, National Science Foundation,
"Technical Data Sharing Among International
Scientists"
- 2:30 Kathy Little, Attorney at Law, Howrey and
Simon, "Problems Resulting from DOD Pre-
Approval Requirements for Public
Presentations"
- 3:30 Break
- 4:00 - 4:45 Open discussion with speakers and members

Agenda (contd)

Thursday, October 19, 1989

- 9:00 Dan Cook, DOC, "Licensing Under the EAR"
- 9:30 Jim Mitchell, Senior Attorney, Office of
General Counsel, LANL, "Export Lessons Learned
at LANL"
- 10:15 Break
- 10:30 Clyde Bryant, DOS-OMC, "Enforcement of Export
Violations and the FOCI Problem"
- 11:30 Lunch
- 1:00 Keith Fultz, GAO, "DOE's Controls Over Weapon
Related Technology & Information"
- 2:00 Jim Corey and Fran Sanchez-Conroy, SNL,
"Technology Commercialization Task Force
Security Subgroup"
- 3:00 Break
- 3:30 - End Doug Barr, Closing Remarks; Annual ECCO
Organizational Meeting (election of Chairman;
Charter Changes; next Conference)

November 14, 1989

ENCLOSURE III

SUMMARIES OF SPEAKERS' PRESENTATIONS
AT THE
OCTOBER 18-19, 1989 ECCO CONFERENCE

- A. Ed Dyson; Attorney, Baker & McKenzie - Ed provided the group with an overview of Principal U.S. Export Controls and Trade Sanctions. Ed mentioned that export control received a great emphasis during the Reagan Administration, and became a more sophisticated instrument in controlling the exports of both hardware and technical data. The Export Administration Act controls the export of non-military and "dual use" items, while the Arms Export Control Act covers primarily military use items. Ed emphasized that exports can occur through even such mundane activities as plant tours by a foreigner.

Within the export community there is an overall trend toward the use of more general licenses, a relaxation of unilateral controls over Technical Data, and overall, an increase in enforcement of the various export regulations.

Finally, Ed indicated that clarified guidelines were recently published for the use of general export license GTDA, which applies to:

- (1) Technical data already publicly available;
- (2) Fundamental research, which is defined as basic and applied research in science and engineering, where the resulting information is ordinarily published and shared broadly within the scientific community,
- (3) Educational material, and
- (4) Certain Patent information.

These new rules also clarify the recognized category of technical data called, "Federally funded research"; and specify that the research may be designated as "fundamental research" within any appropriate system controlling release of the information by the federally funded agency.

- B. Jim Noble, Department of State, Office of Nuclear Export and Import Control - Jim described the DOC Commodity Control List (CCL) and identified the Nuclear Referral List (NRL) as a subset of the CCL. The NRL contains commodities which have been identified as those that could be of significance for nuclear explosive purposes, and thus are subject to validated licensing; and Jim indicated that these items are subject to referral to DOE for export licensing authorization.

Jim also said, in response to questions, that he believes that General License GCG can be used to export items on the NRL if a bilateral agreement exists between two countries; and some exports, especially nuclear-related, must be reviewed by DOC, DOS and DOE because of concurrent jurisdiction.

Finally, Jim indicated that most computers require licensing of some sort, and that General License BAGGAGE can be used to export personal computers when they are to be retained and used by the exporter, although travel to the East Bloc is not allowed.

- C. Larry Christensen, Department of Commerce - Larry discussed National-Laboratory, Government-Contractor Technical Data Under the EAR.

Larry described the recent agreement between the DOE and DOC wherein certain commodities and technical data related to the U.S. Magnetic Fusion Program could be exported by the DOE National Laboratories under General License GUS. Otherwise, Larry's message was that the DOE National Laboratories must follow the export regulations, just like any private business; that we can't export anything unless we have a general or validated license.

- D. Charles Herz, National Science Foundation - Charles discussed technical data sharing among international scientists. He described the new GTDA requirements as published in the October 3, 1989 Code of Federal Regulations (CFR), wherein the definition of Fundamental Research was clarified.

Based on the October 3 CFR, Charles believes that the National Laboratories can, within limits, define their own criteria whereby technical data is determined to be "fundamental research." The CFR specifies that: "Research conducted by scientists or engineers working for a federal agency or a Federally Funded Research and Development Center (FFRDC) may be designated as 'fundamental research' within any appropriate system controlling release of information by such scientists and engineers devised by the agency or the FFRDC."

- E. Kathy Little, Lawyer, Howrey and Simon - Kathy led a lengthy but interesting discussion on the subject of problems resulting from DOD pre-approval requirements for public presentations. To summarize Kathy's discussion, if the information is already in the public domain, per the requirements of the International Traffic in Arms Regulations or the Export Administration Regulations, then it doesn't have to be submitted by the DOD contractors to DOD for review prior to release. However, 32CFR250 does require prior approval from the DOD before the release of other information is allowed, or a presentation is made.

If government funds are used to develop the technical data for DOD, then DOD will (should) review it and issue an advisory letter regarding its releasability. Contractors may find themselves in precarious positions if they release the technical data without preapproval from, notwithstanding their "prior restraint" argument.

The group also discussed with Kathy the differences between DOE and DOD review and approval procedures for releasing technical data, wherein a mandatory pre-release review by DOE personnel is not required.

- F. Dan Cook, Department of Commerce - Dan discussed various aspects of export licensing under the Export Administration Regulations. First, as the principal DOC author of the DOC/DOE agreement on exporting Magnetic Fusion technology, mentioned earlier by Larry Christensen, Dan mentioned that national laboratory exporters must abide by the General License GUS requirements regarding keeping the technology in the possession of the exporter.

Otherwise, Dan discussed general licensing procedures under the EAR; provided contacts for licensing assistance; and mentioned that the average licensing time is now about 14 days, although three-day turn-around can be accomplished with "electronic licensing."

- G. Jim Mitchell, Senior Attorney at LANL - Jim discussed recent export lessons learned at LANL. Jim stated that during a recent DOE/AL audit of their personal property practices at LANL, they were found to be violating the export control regulations. As a result, LANL self-disclosed to DOC in the Summer of 1989; i.e., they admitted that they had not been following the export control regulations, but that they were now developing a program to rigorously follow the many regulations when exporting both hardware and technical data. They are now trying to be in compliance. They have put together a coordination team; they are hiring an export control coordinator; and they are implementing an export compliance program. They are allowing no hardware or

technical data to be exported until they are assured the proper export licensing is in place. Project time-scales do not matter.

Jim felt this was a "good lesson learned" for the other DOE Laboratories, and that we all should request DOE/OCTP to provide a strong focal point for export consulting and licensing.

- H. Mary Ann Kruslicky, GAO - Mary Ann, along with Jack Schultz, discussed the GAO report released in June 1989, regarding: "DOE's Controls Over Weapon-Related Technology and Information." Mary Ann identified the Atomic Energy Act dilemma (as did the study), wherein DOE and their contractors are encouraged to publish technical information broadly; yet by the various export regulations they are required to control the dissemination of some technical data.

Mary Ann also indicated that Senator Glenn may yet hold a hearing on the study; and she also indicated that GAO had not yet received a response from DOE, even though the response time had elapsed.

- I. Fran Sanchez-Conroy and Jim Corey, SNL Albuquerque - Fran and Jim summarized for the group the work they are involved with on the Security Subgroup of the DOE Technology Commercialization Task Force. Dick Fredlund, DOE/SAN, is Chairman of the Security Subgroup and Fran and Jim are Co-Chairmen. Meetings were held last January and February at DOE/AL with Security representatives of the various DOE/AL contractors to identify critical security issues for the Security Subgroup.

The Technology Commercialization Task Force is a DOE/OCTP effort and is chaired by Jim Dewar, DOE/OCTP. Their primary concern lies with protecting "sensitive" technology while also allowing technology transfer. To do this, detailed studies of both the technology and the intended recipients are necessary.