

SECRET UNDER SECRETARY OF STATE
FOR MANAGEMENT
WASHINGTON

CODE I
CODE IV
M-Memo File
RF:vhd

November 20, 1978

MEMORANDUM

TO: All Assistant Secretaries, Special Assistants
and Office Heads

FROM: M - Ben H. Read *BHR*

SUBJECT: Classification/Declassification System

As you know, we have been studying for some months how the Department can best organize itself to respond to the new Executive Order on Classification and Declassification policy (E.O. 12065). A major conclusion we have reached is that these activities, in particular the declassification activities are a permanent and major function and the Department must organize itself to handle them on a permanent basis.

I have decided, after considering all of the memoranda and representations made, that we should now institute several reorganization moves to bring the Department into compliance with Executive Order 12065, to continue compliance with legislation governing the release of information to the public (Freedom of Information Act, Privacy Act, etc.) and to establish a unified Department-wide structure governing all aspects of records release. Section 5-404 (a), (b), and (c) of E.O. 12065 requires agencies to assign responsibilities for operations, appeals, and oversight of all specified Classification/Declassification matters. Accordingly, the following structure and procedures will be established:

Department of State, A/GIS/IPS/SRP
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IPS by *A. H. Kirby* Date *10/28/78*

OFFICE OF THE DIRECTOR

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DEPARTMENT OF STATE

1. Classification/Declassification Center (A/CDC)

A new Deputy Assistant Secretary will be appointed in A to be in charge of a new Classification/Declassification Center (A/CDC). The Center will be co-located with FADRC on the first floor.

A. Responsibilities

- Operation of Departmental classification and declassification systems;
- Deciding declassification, release, and denial issues in the first instance (under mandatory review provisions of the E.O., FOI, Privacy Act and any other relevant legislation or executive orders);
- Assuring systematic review for declassification of Departmental records at 20 years and thereafter as required by the E.O.;
- Providing guidelines, after full consultations with the concerned regional and functional bureaus, for classification, declassification and systematic review as required;
- Providing all Department reports and information required by the Information Security Committee; and
- Representing the Department, with L when appropriate, on the Interagency Security Committee; and
- Conducting an educational program on the new Executive Order.

B. Staff

The staff of the center will include: Up to six new positions, including that for the new DAS; a portion of the current A staff dealing with Privacy Act matters; part of the FOI staff which will be transferred from PA*; at some

*Two Positions will remain in PA to staff appeals. The remaining positions will be transferred to the A Bureau and apportioned between FADRC for request processing, and the Classification/Declassification Center.

point in the future an indeterminate number of positions presently used primarily for FOI declassification review purposes to be transferred gradually from the regional and functional bureaus; and an indeterminate number of retired Foreign Service Officers who may work on a split-day shift or other part-time arrangements. The retirees will conduct the actual review of documents for declassification. The selection of these retired officers will be done in close coordination with the bureaus.

C. Coordination

The DAS in charge of the Center will operate in a quasi-autonomous manner in accordance with guidelines and policies to be developed by a Coordination Committee of representatives of the concerned regional and functional bureaus, including PA, chaired by the DAS. Policy differences which cannot be reconciled will be settled by the Oversight Committee (see below). The DAS will promulgate the final directives.

2. Declassification and Release Procedures

A. Systematic Declassification Review*

The DAS for operations will identify and assemble as required all records subject to declassification review at 20 years. The DAS/CDC will devise and oversee procedures, with the concurrence of the Historical Office (PA/HO) and involving DAS/O and regional bureaus as appropriate, to select records from each year's files to facilitate both: (1) review by the CDC for the purpose of drafting declassification guidelines and (2) selection and editing by HO of materials for publication in the "Foreign Relations" volumes. On the basis of this review, the CDC will draft declassification guidelines for approval in close consultation with the bureaus concerned. Following final approval of the guidelines, the total permanent record for the period concerned will be transferred to the National Archives for declassification review in accordance with those guidelines.

*Under the E.O., systematic review of material other than foreign government information must be reviewed for declassification at 20 years; agencies are required to reach this standard within 10 years. The CDC will be charged with achieving this objective as early as possible, and no later than the end of 1985.

B. Requests under the FOI Act, the Privacy Act, and the Mandatory Review Provisions of the Executive Order

Records relevant to all other disclosure requests will be identified by the Deputy for Operations (FADRC) and forwarded to the Classification/Declassification Center for review and decision as to declassification and/or release. As indicated above, the actual review will be done primarily by experienced retired officers working as consultants. They will conduct their reviews under guidelines. The Bureaus will be requested to prepare and propose the initial guidelines, which, because of the greater sensitivity in many cases of these documents, will need to be more specific than those governing systematic review of twenty year old documents. The bureaus will submit their proposed guidelines to the DAS/CDC for review and approval. Policy disagreements will be referred to the Oversight Committee. In the event of any uncertainty concerning the application of the guidelines in specific cases, or in the event of especially sensitive cases, the relevant bureau(s) will be consulted by the CDC before a decision is taken.

C. Record-keeping

The Deputy for Operations (FADRC) will assure in both cases (A. and B. above) that documents once processed for possible declassification and/or release under these procedures are marked or otherwise recorded so that review is not repeated in the event of another, later request.

Resources to accomplish these functions (A., B. and C.) will include up to 9 part-time positions.

To insure integrity of the record, the Deputy Assistant Secretary for Operations will deal directly with the public and governmental users of information, both to receive requests and respond to them after processing.

3. Appeals

The Assistant Secretary for Public Affairs will be responsible for Department action on appeals from CDC decisions and will chair appeals panels, usually consisting of three members including the Chairman, drawn from a list

of senior representatives of other bureaus. The DAS for the Center will serve as an ex-officio, non-voting member of such panels. In the event that the original decision to deny was taken on the insistence of a bureau, a representative of that bureau may participate for the purpose of explaining the rationale for the denial. The panels will decide all appeals from the rulings of the Center on declassification and release of information as well as appeals to amend personal information under the Privacy Act. Two of the current PA/FOI positions will be retained in PA to staff the appeals function.

4. Oversight

The Under Secretary for Management will serve as the "senior agency official" to chair a Department Oversight Committee "with authority to act on all suggestions and complaints" with respect to the agency's overall administration of the Executive Order, as specified in Section 5-404(b). The Committee will consist of representatives of A, L and PA. The Committee may request periodic reports from the DAS in charge of the Classification/Declassification Center and from the Chairman of the appeals panels. The Committee will decide policy issues which cannot be resolved at bureau levels, other than appeals which relate to the denial of information requested under statutory or Executive Order authority. One of its concerns will be the adequacy of resources and procedures employed to carry out the purposes of the Order.

Transitional Aspects

There is much to be done before the new system will be fully operational and the new center can take over the review process from the bureaus. In the interim, and until the new Center is fully operational, the current system will continue in effect and preparations now being made by the Council on Classification Policy and its member bureaus for implementing the new E.O. should continue.

Procedures already approved by the Council on Classification Policy for review and declassification of 1950-54 records should be pursued and completed at the earliest possible date. The new system will be applied beginning with the 1955 records. The phasing in of the CDC operations will be gradual. Every effort

will be made to avoid confusion. We must avoid disruption of the current system before the new one is in place. The cooperation of all will be essential. Modifications and the transition will be implemented by the new DAS using the Coordination Committee mentioned in Paragraph 1 c, above. In that connection, all bureaus and offices have been requested to nominate a representative to that Committee at the Deputy Assistant Secretary level. Nominations should be made to M.

All other existing Department organizational units dealing with classification and declassification matters specified above, including the Council on Classification Policy and the Freedom of Information Staff (PA/FOI), will cease to exist when the procedures outlined herein are effected and the Center is in full operation.

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DEPARTMENT OF STATE

Washington, D.C. 20520

March 19, 1980

MEMORANDUM

TO : PA/HO - Mr. William D. Blair, Jr.

FROM : A/CDC - Clayton E. McManaway *CM*

SUBJECT : CDC Role in Foreign Relations Series
Prior to 1955-57

As you know, I have been considering on an urgent basis the question of the extent to which it will be necessary for the Classification/Declassification Center to play a role in the process of clearing materials for publication in the Foreign Relations of the United States series for years prior to the 1955-57 triennium, i.e., material which was in the clearance process when the Center was established.

As part of this process, we have looked at material of this sort pertaining to selected countries.

In our judgment, which is concurred in by the Bureau of European Affairs, the 1952-54 material concerning our relations with the U.K. contains a number of documents which should remain classified in whole or in part. It contains other documents which should be declassified only after clearance with the U.K. The latter category relates directly to our internal discussions concerning policy with respect to foreign government information provided to us by Commonwealth governments. Our ultimate decision concerning documents in this category should await the outcome of these discussions, which will be known in the near future.

Questions have also been raised concerning material related to certain other countries, questions sufficiently serious to require that they be taken up with the geographic bureaus concerned.

In light of the above, I have decided that the Office of Systematic Review must go over those materials already in the pipeline but not yet advanced to the page-proof stage. It is my understanding that this would comprise:

From the 1951 Series - Vols. IV (Europe) & VII (Korea & China)

From the 1952 - 54 Series - All Volumes except Vol. III

Department of State, A/GIS/IPS/SRP

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 IPS by *H. Kirby* Date *10/28/11*

We will make every effort to accomplish this review so as not to interfere with maintenance of your current publication schedule. Thus, we will give first priority to the review of the volumes in the 1951 series and Volume V of the 1952-54 series. Other priorities will be established in relation to your schedule. Reviewers are available to begin (in some cases to continue) this task and I believe it can be accomplished rapidly enough so as to have little or no effect on your schedule.

Please take the necessary steps to assure that the materials involved are handled in such a way as not to preclude making effective the results of our review.



DEPARTMENT OF STATE

Washington, D.C. 20520

AC
WJD
→MS

April 2, 1980

MEMORANDUM OF CONVERSATION

Are these
cleared
minutes?

SUBJECT : Meeting on Re-review of Unpublished Foreign Relations Volumes by the CDC for the Years 1951-54, March 27, 1980

DATE : March 27, 1980

PARTICIPANTS : Messrs. McManaway, Blair, Pickering, Trask, and Baehler

Copy to Blair
4-16

Mr. Blair noted that the inclusion of certain material in the European volumes for 1952-54, already cleared for release, has aroused concern. What was the rationale for re-review of all unpublished volumes for the entire period? Mr. McManaway said that the genesis of the re-review was accidental, arising mostly from Mr. Galloway's reading the UK compilation for 1952-54 and a resultant inquiry to the desk, asking how much of the material contained therein should be published without consultation with the concerned government. He also observed that concern expressed upon completion of the review of the volume on Indochina. Mr. Pickering said that specifically the CDC was concerned about some third-country involvement in bilateral relations between the US and other countries, such as Swedish intermediary action in US relations with Korea. There is no evidence, he said, that such third country involvement was cleared either with the desk having responsibility or with the third country.

Mr. McManaway said that the CDC's concern about the adequacy of the review coincides with concern about the adequacy of the 1950-54 guidelines. He went on to say that delays in the FRUS publication would not be a problem because there is not enough material to slow the process significantly. He gave assurances that the CDC would start with 1951, v. VII and continue with 1952-54, v. V. Finally, he assured those present that the CDC did not relish the prospect of re-review because it delayed somewhat its review of 1955-57 material. Mr. Pickering said he expected few or no additional deletions from most volumes. Mr. Trask said that one of HO's concerns was with the delays the re-review might cause. Mr. Pickering said that the

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IPS by HR Kirby Date 10/28/11

re-review would take place in the order that HO requested. Mr. Trask noted that even a small delay at the front end can multiply later on, particularly if the re-review is de novo and if it should require appeals to different authorities than those now involved in the process. Mr. Pickering doubted that this would present much of a problem, since the only area that is likely to become an issue is the UK. Mr. McManaway agreed with Mr. Pickering. He also gave assurances that the CDC would not make additional objections unless it had already checked with the concerned bureau. This should reduce additional objections to a minimum, thus minimizing delays, and since the publication dates for most of the concerned volumes are so far off anyway, it was hard to see how CDC action could entail any appreciable delays.

Mr. Blair said he agreed with the concern expressed about UK and certain Indochina material, but wondered whether this concern justified jettisoning all bureau reviews on all volumes for the period. Mr. McManaway said that they in the CDC went through a similar thought process, but concluded that we could not be certain whether other problems existed unless the CDC looked at everything. Mr. Pickering pointed out the seriousness of the problem by saying that the UK desk felt that some of the documents previously cleared should not even be shown to the UK government, let alone published.

Mr. Trask inquired about the procedure used to inaugurate re-review of the 1951-54 volumes. He suggested an alternative that might have been used. Ben Read had established the original division of labor by which the CDC began its review with the 1955 records. PA was supposed to complete work on the records through 1954. For this reason, given CDC interest, CDC and HO might have returned to Mr. Read jointly with arguments as to why or why not the 1951-54 records destined for publication required re-review. If Mr. Read decided in favor of re-review, the CDC would have made the initial examination and could have consulted with HO on its conclusions. At that point, the CDC and HO could jointly or individually consult the bureaus about proposed deletions or about reversals of deletions made earlier. Mr. McManaway said that the procedure Mr. Trask had outlined was about what the CDC has envisioned in any event.

Pursuing the question of procedure, Mr. Trask asked whether HO and the CDC had the same understanding of de novo review. Mr. Pickering described his conception of de novo review. His reviewers would conduct a review of all of the volumes without reference to the actions the bureaus had taken earlier.

Who on
the desk?
(Clearance
earlier?)
What is the
material?

Only after that review was complete would the reviewers compare their actions against actions previously taken as reflected in the HO galley. In the event of divergence between desk and CDC actions, the CDC would discuss the question with the bureaus. Mr. Trask said that it sounded from Mr. Pickering's presentation that HO would suffer from the worst of both the old and new worlds under the contemplated re-review procedures. It appeared that all the old denials would remain intact, while the results of the CDC re-review would simply be an add-on to earlier decisions. He said he thought that the CDC should take full responsibility for all withholdings directed in the course of re-review. In undertaking the re-review, the CDC was in effect telling the bureaus that their initial examination was inadequately done. If that is in fact the case, HO expected CDC to declare the bureaus' review invalid. The procedure described by Mr. Pickering did not explicitly provide for that.

Mr. McManaway said in effect that Mr. Trask drew a false distinction between bureau and CDC review. The CDC, as the bureaus' agent, will not make any changes either way -- negatively or positively -- without consulting the bureaus. Mr. Trask agreed that the CDC acted as the bureaus' agent. He only wanted to be sure that the CDC related to the bureaus in the re-review of the 1951-54 records in the same way that it will relate to them on records for 1955 and later. It did not appear that the CDC planned to do that. Mr. Blair disagreed with Mr. Trask, stating that it seemed to him that the CDC and HO were of one mind on the ground rules for re-review.

Mr. Trask then listed three characteristics of de novo review as HO understands the term and asked whether the CDC had the same understanding:

1. The prior bureau review was suspended.
The CDC would
2. /accept full responsibility for actions under the new review; i.e., HO would deal directly with CDC in all matters relating to the re-review such as appeals.
3. Re-review might result in release of material withheld under previous examination as well as denial of material released previously.

Messrs. McManaway and Pickering indicated agreement. The CDC would conduct the review without prior knowledge of bureau actions; it would consult with HO after the review was completed to determine whether there was any compelling reason for withholding certain material; and it would return to the bureaus in order to resolve

disagreed items. The CDC would assume full responsibility for all deletions, always recognizing that it functions as an agent of the bureaus that originated classified information. Mr. Blair concluded with the observation that PA was present to defend the principles of openness; he hoped that the CDC would recognize that role.

Mr. Trask said that his concern in re-review was not the amount of material that the CDC might deny. He believed that the object should be to insure that all desensitized material be declassified and that legitimate sensitive information remain classified at the appropriate level. Mr. Blair said that the CDC and HO seemed to be close on general principles of re-review and asked that Mr. Trask proceed to specifics.

At this point Mr. Trask asked that volumes VII, 1951, and V, 1952-54, be exempted from re-review on the following grounds:

1. Re-review could entail considerable expense.
2. Re-review could cause significant delay in publication.
3. The volumes have already been fully cleared.

Mr. McManaway replied that the CDC was already mostly finished with 1951, v. VII, and it did not appear that many significant changes would be necessary. As for the rest of the material, it was not possible to determine what deletions would be necessary prior to review, but a review would in any case be necessary. Mr. Pickering pointed out one passage that the CDC found sensitive in its review of 1951, VII, by way of illustrating what a review of the aforementioned volumes might turn up. Mr. Trask noted that the passage dealt with foreign-government information in a U.S. document and sought to clarify HO's position on the treatment of FGI. He pointed out that the general guidelines call for withholding such information contained in US documents only if the reviewers find it still sensitive. Mr. McManaway thought this point irrelevant in the case of the UK desk officer who reviewed the UK compilation previously. Guidelines did not then exist. Besides, it was CDC's view that the desk officer did not adequately take account of sensitive documents in his review. Mr. Trask asked if Mr. McManaway thought the UK desk officer's review was incompetent. Mr. McManaway said he did think so, and that is the reason for the CDC's returning to the desk at this point to determine what is sensitive.

Mr. Trask then asked to rehearse the reasons why HO thought the re-review unnecessary for the purpose of placing those views on the record. Mr. McManaway suggested that he do this with

Mr. Pickering. Mr. Trask said he preferred to do it during the meeting in progress. Mr. Blair asked how long it would take. Mr. Trask said it would take about 3 minutes, whereupon permission was granted. The first point, he said was that no showing had been made that a re-review was necessary. The CDC had not presented a good case to demonstrate that the bureaus' review was incompetent. Mr. McManaway asked if PA wanted to take responsibility for release of something damaging in the event that a part of the review was incompetent. Mr. Blair said that ultimately Hodding Carter would have to take responsibility, and that in practical terms PA would not be able to show that such a re-review was unnecessary. He told Mr. Trask that he disagreed with this criticism of re-review by HO. Mr. Pickering then read a portion of a telegram cleared for publication with the purpose of showing that the passage in question raised serious questions about the adequacy of the initial review. Mr. Trask asked whether HO had previously been consulted about this passage to see whether the information contained in it was already in the public domain and thus desensitized. Mr. McManaway said that the CDC had not so consulted and regretted not having done so.

Mr. Trask's second point in objecting to the re-review was that delays in publication and in the CDC's review of 1955-57 (which would result in later publication delays) was unavoidable, as previously noted, and that re-review would entail considerable expense, and should be avoided unless the need for it ^{was} fully demonstrated, something that CDC had not yet done. Mr. McManaway promised to avoid delays if at all possible. He also reiterated that the CDC would not ask HO to withhold publication of material (which could result in delays for the purpose of appealing the decision) unless the bureaus have already agreed in advance with the CDC decision. At this point Mr. Blair asked for a brief discussion of the agreement mentioned in Mr. Meyers' memorandum about a meeting with representatives of the British Embassy. He stated that PA would have to insist on consulting about any such arrangement and would oppose granting a foreign government a veto over publication of such information. Mr. McManaway said that; first of all, no one had made a decision on how the US would handle such information. Secondly, when a decision is made by Mr. Read on the question, the material submitted to him will specifically exclude the possibility that any foreign government will have the right to exercise a veto right over such information. Thirdly, he assured those present that HO is already on the ground floor of the decision process and that HO will continue to be involved in it. Mr. Trask asked that the Meyers' memo be revised to include the word "consultation" in place of the word "review" on the grounds that the latter implies that the government concerned has the right to exercise a veto over information contained in a US document. For the same reason, he proposed that the word "clearance" be removed from the memo and that a specific statement be included to indicate

that any arrangement would not diminish the right of the originating government to dispose of its own documents. Mr. Pickering noted that the memo did not reflect a formal proposal. Mr. McManaway saw no reason to alter the memcon. Mr. Blair agreed with Mr. McManaway.

Mr. Trask said in conclusion that H0 was opposed not only to the way the matter was handled procedurally, but also to the substance of the proposal discussed at the meeting. In this connection, he handed Mr. McManaway a memorandum of Nov. 3, 1958 by Mr. Noble on the subject of clearing FGI in US documents with the government originating that information. (This memorandum strongly opposed any form of consultation with other governments on FGI in US documents, except in the case of direct quotations. A copy is appended.) Mr. Blair said he wished Mr. Trask had given him a copy of the memo. Mr. McManaway said that he was conscious that the FGI discussion could represent a change in policy. He would be sure to include H0 in discussions of the proposed change.

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ASSISTANT SECRETARY OF STATE
WASHINGTON

April 11, 1980

DEPARTMENT OF STATE
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BUREAU OF PUBLIC AFFAIRS

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HC
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1-Track 4/16

TO: M - Mr. Read
FROM: EUR - George S. Vest
SUBJECT: EUR Clearance of Material for the FRUS, 1950-54

The issuance of FRUS Volume 1, 1951, containing material which I would have preferred not be released, has brought home to me the EUR clearance problem. As a result of this experience, I think it is important to ensure no repetition.

I feel obligated to withdraw EUR clearances for the FRUS documents and volumes not yet published. I request that all this material be reviewed again by the CDC, consulting as advisable with me and other officers in EUR. During this review, I request that foreign government information proposed for publication in the FRUS that might require consultation with the governments concerned, if it is to be published at all, be specifically identified to me or my staff.

After the experience of last week, it is especially important to have a sensitive review procedure. The staff you have assembled in CDC has the background and sensitivity. I and my Deputies and Office Directors will be ready to work to ensure orderly and expeditious publication -- but now is the time to ensure the procedure.

cc: PA - Mr. Carter ✓
A/CDC - Mr. McManaway

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UNDER SECRETARY OF STATE
FOR MANAGEMENT
WASHINGTON

VCC: PA/KO
D. TRASK

April 11, 1980

TO: All Assistant Secretaries
FROM: M - Ben H. Read *B.H. Read*
SUBJECT: Re-review of Materials for Publication in the
Foreign Relations of the US: 1950-1954

We have recently discovered problems with some of the material previously cleared by the bureaus for publication in the FRUS covering the years 1950-1954. In addition, some of these earlier reviews were conducted as long as three years ago, and circumstances have changed substantially in some cases in the interim.

Consequently, I have directed the CDC to conduct a fresh review of all the unpublished materials previously cleared for the FRUS covering 1950-1954. This will be a de novo review including, also, material previously withheld.

The re-review must be done as expeditiously as possible.
The CDC will need to consult with the bureaus, as appropriate, and your cooperation will be appreciated.

*
*Wadding - Clay tells me he'd
his people will complete their review
of the next vol by the end of next week.*

Department of State, A/GIS/IPS/SRP
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DEPARTMENT OF STATE
Washington, D.C. 20520

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April 11, 1980

MEMORANDUM FOR THE RECORD

Subject: Reasons Why the Office of the Historian Opposes
All Forms of Dealings with Other Governments on
United States Documents that Include Foreign
Government Information

The case against any such proceeding has been extant for a long time, and it has been adhered to in the past. A good number of the reasons for this view, firmly held in HO, are listed in a memorandum on the subject that G. Bernard Noble, the former head of HO, prepared in 1958. A copy of this document is appended. I attach also a relevant memorandum on the subject that HO made available to the CDC. Arthur Kogan prepared it.

The basic expedient reason to avoid any exchanges is that any form of discussion, with other governments, even mere consultation, on U.S. documents containing foreign government information is that the disadvantages would far outweigh any conceivable advantages.

A question of fundamental principle also obtains; no sovereign state should compromise in any way its freedom of action to dispose of its records as it chooses.

Below find a systematic listing of the several specific reasons for opposition to discussing U.S. documents, most of them mentioned in Mr. Noble's memorandum:

1. Only the United States can bear responsibility for a report of foreign-government information in an American document, other than a direct quotation. Any such report is by definition an American official's interpretation of another government's views not information owned by the other government.

2. Review of American documents or consultation about them may place information in the hands of another government to which it has no right. Moreover, delivery of such information might not be in the national interest.

Department of State, A/GIS/IPS/SRP

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3. Foreign governments might use review or consultation as an opening to permit censorship of information other than that submitted to them for consideration.

4. Publication of a document that excluded foreign-government information might distort its meaning.

5. If asked to consent to publication of certain types of information a foreign government might well feel the need to oppose publication, but it might have no objection at all to a unilateral action by the United States.

6. Real difficulties could develop with a foreign government, should it object to publication of certain passages that the United States government later felt compelled to publish anyway.

7. In almost every case of foreign-government information found in U.S. documents historians and others in the Department of State can make an accurate estimate of the sensitivity of foreign-government information in the other nation and take that estimate into consideration in considering declassification and publication. In other words, only in very rare instances would the United States learn through consultation with a foreign government what it could not learn by other means.

8. Reviews or consultations would pose certain legal and administrative problems that would unduly complicate matters, leading to unacceptable expense and delay.

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DEPARTMENT OF STATE

Washington, D.C. 20520

M. Tolson

April 17, 1980

To: EUR - Mr. George Vest

From: PA - Hodding Carter III *HC*

Subject: EUR Clearance of Material for the FRUS, 1950-54

Ref: Your Memorandum to Ben Read, April 11, 1980,
with a copy to me

George,

Your withdrawal of EUR clearances for unpublished FRUS volumes covering 1950-54 is surprising and disappointing. As a matter of priority, please send to me a copy of all material contained in FRUS Volume I which you would have preferred not to be released, which you cite as your reason for withdrawing clearances for the 1950-54 volumes. I understand that you sent a copy of FRUS Volume I 1951 to the British Embassy with an apology for publishing the material in question. I request also a copy of your communication to the British Embassy. None of us want to publish material that will be detrimental to the national interest, but that interest has to be defined and interpreted to include the public's right to access. You know well the battles that have been fought over where to draw the line. I am concerned that in our effort to open the historical record we are evidently moving backward, taking steps that could lend substance to a charge that the present Administration is less committed to the goal than either of its two immediate predecessors.

Department of State, A/GIS/IPS/SRP

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ASSISTANT SECRETARY OF STATE
WASHINGTON

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April 18, 1980

TO: PA - Mr. Carter
FROM: EUR - George S. Vest
SUBJECT: EUR Clearance of Material for FRUS 1950-1954

I know that my reservation on the clearances causes a problem, but I stress that I don't want to cause a slow-down and only to make assurance doubly sure. As for the material in the 1951 volume that left me uneasy, Bill Galloway brought it to my attention and could identify the worrisome sections. As for the British Embassy, I did not send them a copy with an apology for publishing material. In the course of the DCM's call on business, I handed him a copy and suggested that they might want to look through the Table of Contents to be on the alert in case the distribution led to newspaper stories. There was therefore no communication to the British Embassy.

Again, I don't want to move the historical effort backward, and I'm prepared to take the time and to call on my key Deputies to get a move on, with care.

Department of State, A/GIS/IPS/SRP

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IPS by AKK Date 10/28/11



DEPARTMENT OF STATE

Washington, D.C. 20520

May 2, 1980

TO: PA - Mr. Carter

FROM: PA/HO - David F. Trask *David F. Trask*

SUBJECT: Actions Concerning Foreign Relations of the United States

On April 15, 1980, at your instruction, I sent you a package of materials concerning proposed reactions to re-review of unpublished volumes in the Foreign Relations series (FRUS). Events having markedly altered the general situation, HO wishes to substitute this package of recommendations for the earlier one. The most important of the new elements is the arrival of a request from the Central Intelligence Agency for the right to re-review all unpublished volumes. This request covers the items covered in Mr. Read's directive.

HO's view is that PA should resist re-review, given the consequent delay and expense, unless a convincing case is made for re-review in writing.

--In this connection HO proposes that you send the draft memorandum to Mr. White of the CIA attached as Tab 2. The latter rejects the CIA request for re-review.

--HO suggests further that you send an action memorandum to Mr. Read requiring the CDC to cease interfering with HO's pursuit of declassification decisions in other agencies. This draft is attached as Tab 3.

--HO also proposes that you send a memorandum to Mr. McManaway concerning the schedule of re-review. This draft memorandum is attached as Tab 4.

In addition to these actions, which follow logically from prior activities at the CDC-bureau level, HO recommends certain initiatives before the Oversight Committee that was created to monitor and to control the workings of the new system of central declassification review in the Department. Pursuit of these initiatives is called for at the present time because the principle

Department of State, A/GIS/IPS/SRP

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of openness is likely to carry greater weight at that level than in dealings with the CDC or the bureaus and because PA can then regain the initiative in discussions relating to FRUS. HO does not propose to stop actions at lower levels; rather, it proposes that PA/^{act} simultaneously at another higher level. Failure to act now at the higher level might render efforts at lower levels nugatory.

Specifically, HO proposes four initiatives to be undertaken in the Oversight Committee:

--A briefing of the Oversight Committee to acquaint it with the function of the Foreign Relations series and its present circumstances. Attached as Tab 5 is a brief summary of the information that might be communicated to the Oversight Committee.

--Discussion of numerous weaknesses in the Department's efforts to undertake centralized declassification review. The system has not been fully implemented, especially those aspects of it designed to insure that all interested parties have an opportunity to contribute to the determination of policies and procedures relating to classification and declassification. Moreover, the Classification/Declassification Center (CDC) has undertaken a number of initiatives on its own motion without appropriate prior discussions. Attached as Tab 6 is a memorandum outlining the weaknesses of the system at present.

--Presentation of a proposal to reaffirm the Department's traditional opposition to presentation of US documents containing foreign government information (FGI) to other nations for any purpose, whether consultation or review. HO's views on FGI are attached as Tab 7.

--Discussion of a proposed revision of 2 FAM 1350 intended to take recent changes in policy and procedure into consideration. The proposed revision is attached as Tab 8.

HO believes that delay in taking this integrated package of actions works to the disadvantage of PA; it urges an early decision. I am eager to discuss these matters with you at your earliest convenience.

PA/HO:DFTrask:eln



DEPARTMENT OF STATE
ACTION MEMORANDUM

S/S

Tab 6 5/2/80
not sent

TO: M - Mr. Read
FROM: PA - Hodding Carter III
SUBJECT: CDC, the Foreign Relations series, and the
Declassification Muddle

BACKGROUND

Since 1978 PA and HO vigorously supported a centralized declassification program in A/CDC. We played the leading role in shaping the design of the institution to allow the Department to implement E.O. 12065. HO has worked to select the documentary sample from which the CDC is to frame Department declassification guidelines. HO prepared detailed, classified guidelines to be used to permit transfer of 1950-1954 Department records to the National Archives and arranged their clearance in the Department. PA and HO reluctantly agreed to retroactive review of documents already carefully declassified under previous policies and procedures. HO met all of CDC's requests for resources to expedite retroactive review in the hope of mitigating the impact upon the ongoing Foreign Relations publication program. HO has tried to work closely with the CDC in establishing appropriate security handling procedures for historical documents in order to permit prompt, orderly processing of the Foreign Relations series.

So far, PA's efforts to assure timely and proper adherence to E.O. 12065 have been largely unavailing. The primary obstacle is a series of extemporized steps taken by CDC that (a) have brought production of the Foreign Relations series to a halt; (b) thrown publication plans for 1980, 1981 and 1982 into confusion, and (c) seriously compromised the Department's ability to attain a twenty-year line in declassification.

Department of State, A/GIS/IPS/SRP

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Halt in Production of the Foreign Relations Series

All thirty Foreign Relations volumes for the period 1950-54 have been carefully reviewed for declassification in the Department, following time-tested procedures. Other agencies and governments have cleared several of them. No other agency or foreign government has objected to these procedures, but the CDC unilaterally decided that previous review of the 1950-54 material was inadequate. Although no showing of inadequacy was forthcoming, PA acquiesced in the re-review of volumes not yet fully reviewed by all concerned parties.

Since that re-review was initiated the CDC has expanded its scope, again unilaterally and without a showing of need, to include re-review of Foreign Relations volumes that are already fully declassified and nearing publication. The result has been a halt in issuance of one of the major products of this Bureau. The result will cast serious doubt on the readiness of this Department to carry out the will of this Administration concerning open government.

Disruption of publication plans for 1980, 1981 and 1982

Partly because of the CDC's unilateral decision to reinvent the wheel in declassifying 1950-54 materials, and partly because of the CDC's decision to delay review of the post-1954 material, PA's publication plans for the next three years have been thrown into confusion. The CDC's recommendation that one volume on the verge of publication be withheld not only prevents public access to it, but also must necessarily result in delays in re-review of later material because the relevant documentation is thirty years old and must be presented to the secretary for certification before further withholding can legally occur. Re-review of materials already declassified by the State Department means that this Bureau will have to halt review on volumes already in progress at the NSC, since the NSC will act only on materials that have already been finally acted upon by the constituent

agencies. Other volumes poised for transmission for NSC declassification review must be held back. Finally, activity on 1955-57 materials now in the CDC is necessarily scaled back and held up pending a review of the earlier material.

The Department's Goal of Attaining the 20-Year Declassification Line

Your directive of November 20, 1978 stipulated that the Department attain a twenty-year line in declassification as soon as possible but in no case later than the end of 1985. Five and a half years before the deadline, the CDC is still reviewing documents dated as early as 1950. I do not deny that attainment of the goal is possible, but a determined effort is clearly called for--a much more determined effort than has been made so far.

DISCUSSION

The Department's declassification effort in the area of systematic review is seriously flawed as presently constituted.

1. The CDC has disrupted the existing declassification system.

a. The CDC has failed to formulate a rationale for the need to re-review previously declassified materials. Earlier action, though far from perfect, was conducted under a clear set of guidelines defining the goals and purposes of the Foreign Relations series and of systematic review generally. In conducting a re-review, the CDC has dispensed with those guidelines and has substituted nothing for them.

b. The CDC has also failed to follow the procedures defined in your enabling memorandum of November 20, 1978. Had the CDC followed your directive, there might have been a more sober assessment of the need for re-review. To the best of my knowledge, no meeting of either the Coordination Committee or the Oversight Committee, both intended to represent all concerned parties and to

provide the policy guidance so lacking in recent CDC decisions, has occurred in the last few months. If one or both of these committees had met, basic issues concerning systematic review and the Foreign Relations series could have been debated by all concerned parties.

c. The CDC has demolished existing procedures relating to review of foreign government information but has failed to devise a new method for dealing with declassification of such material. During the past several months the CDC has signalled to the British Commonwealth countries its willingness to abandon decades of prior practice by permitting those countries to review American documents scheduled for inclusion in the Foreign Relations volumes. This review was to be undertaken on the pretext that it was an appropriate means of applying the "foreign government information" clauses of E.O. 12065. Attempted revision of procedures was begun without the benefit of consultation either through established mechanisms in the Department or through the Office of the Historian, whose work it directly affects. It was advanced to Commonwealth representatives on the most misguided of premises--that Commonwealth anxieties about the FOI impact on recent intelligence information given to the US in confidence could be extrapolated to cover thirty-year-old historical documents scheduled for publication in Foreign Relations. A available evidence suggests that unsolicited proposals from US officials to reverse long-standing and well-tested clearance procedures for Foreign Relations documents have caused puzzlement among representatives of the Commonwealth countries. It is highly improbable that the Commonwealth countries will adopt a reciprocal policy in response to these proposals.

d. The CDC has delayed transfer of 1950-54 records to the National Archives. Although guidelines for systematic review at Archives of the 1950-54 materials have been completed and approved in the Bureaus for several months, the CDC has delayed their transmission, pending a test of their adequacy. While this is part and parcel of the re-review to which this Bureau has already acquiesced, further delay will postpone transfer of records to Archives until 1981. Besides the obvious

retrogression in the Department's efforts to project a more open image, this postponement will require the Secretary to certify the withholding of thousands of pages of thirty-year-old documents that earlier reviewers judged releasable.

e. The CDC has interfered with procedures for acquiring other-agency clearances on documents destined for publication in the Foreign Relations series. Previous practices, sanctioned by Department regulations, whereby HO assumes responsibility for acquiring declassification action from other agencies have never elicited the slightest protest from elsewhere in the government. For reasons unknown the CDC, reversing a position taken in its formative stages, has recently involved itself in declassification activities of other agencies on Foreign Relations materials. The result, wholly unfavorable, has been confusion over who has authority in this domain.

2. The CDC has yet to replace the disrupted declassification system with a viable substitute.

a. The CDC has failed to activate a fully centralized system for declassification. Despite your memorandum of November 20, 1978, no detailed guidance for review of historical documentation selected for inclusion in Foreign Relations and the documentary sample has been developed through authorized channels.

b. The CDC has yet to develop through authorized channels a full definition of the term "foreign government information" as expressed in E.O. 12065.

c. The CDC has yet to transfer a single document to the Archives' custody under guidelines developed by means of the review.

d. The CDC has yet to complete systematic review declassification on a single Foreign Relations volume for the 1955-60 period, despite having been in existence and at least partly staffed for nearly a year. Start-up delays in such a complex system are inevitable, but the projected schedule for review for the 1955-57 period has

slipped badly and no work at all has been done on the 1958-60 documentation. HO has committed two work years toward meeting its agreed goal of gathering a representative sample of documents from the period 1958-1960 for CDC review, a sign of its commitment to centralized declassification review.

Downgrading of Historical Documentation

Related to the delay problem is the question of HO's handling of classified information. In preparing the Foreign Relations series, HO maintains at any given time some 1,500,000 pages of documents that are twenty to thirty years old. HO transmits in the average year at least 50,000 pages of classified documents twenty to thirty years old. Much of this material is Top Secret. All but a small fraction of it is eventually declassified. For many years SY has recognized this documentation as historical and eligible for handling as Confidential. Since 1961 HO has operated under a formal waiver permitting the handling of all historical documentation collected for preparation of Foreign Relations to be handled as Confidential. Early this year HO made an effort to bring its procedures more into line with the Department's new classification and declassification program. It sought from SY an extension and reaffirmation of the waiver for historical documents. SY referred the request to the CDC, which has yet to respond. The absence of denial of the waiver will have a disastrous effect upon the Foreign Relations program. Approximately sixteen volumes in linotype at the GPO would have to be stored in a special handling facility that may not even be available and would surely be astronomically expensive. Twelve volumes in manuscript would have to be held in the Department in appropriate storage facilities, pending long-delayed CDC declassification action. Some \$50,000 in outside editing contracts let by A/FAIM/PS would have to be suspended because these commercial editing firms do not have top secret clearance and would not attempt to obtain it. An additional \$50,000 in feasibility contracts for commercial word processing of Foreign Relations volumes would also have to be suspended in the absence of either cleared manuscript or handling waivers. These production delays

would be compounded because of massive reassignment of HO resources to identifying, labelling, storing, and listing at least 500,000 pages of Top Secret documents from twenty to thirty years old. The Foreign Relations publication would be effectively ended; it would be impossible to resume publication prior to 1982.

RECOMMENDATIONS

Effective declassification and foreign policy publication programs are essential to the overall operation of the Department of State. Disarray and delay in either of these programs will harm the Department in its dealings with Congress, in its efficient internal operations, and in its relationships with key public constituencies. A fully operational centralized declassification system must be brought to bear at the earliest possible moment. It is no less important that long-established and widely respected Department official publication Foreign Relations of the United States continues to be published on a timely and efficient basis. In order to achieve these twin goals, I recommend that you authorize or direct the following actions:

1. That HO and CDC work out an accelerated review schedule for the declassification evaluation of materials for Foreign Relations volumes for 1955-1957 by the end of 1980.

2. Convene regular meetings of the Coordination Committee of CDC to assure building-wide understanding of an participation in the main lines of the new Department centralized declassification program.

3. Carry forward the retroactive review of previously declassified Foreign Relations volumes but confine that review to the 1952-1954 volumes; create a special task force of CDC, HO, and the Bureaus to oversee the review and establish guidelines for it.

4. Charge the Office of the Historian with the responsibility for securing declassification of other agency documents proposed for publication in the official Foreign Relations volumes; procedures will be established to assure that CDC is kept fully informed of declassification decisions by other agencies as well as to permit reference by CDC to HO of documents with other agency equity.

5. Suspend negotiations with foreign governments regarding the application of foreign government information criteria as it applies to the declassification of documentation intended for publication in the official Foreign Relations record; assure that HO will be a principal Department participant in any renewal of such negotiations; place the question of foreign government information on the agenda of the Coordinating Committee and the Oversight Committee.

6. Give final approval to the Department's classified declassification guidelines for 1950-1954 which were drafted by HO and reviewed and cleared by the Bureaus; make the earliest possible arrangements for the transfer of the 1950-1954 record block, subject to National Archives approval of the classified guidelines; encourage CDC to monitor this record block closely and make in-depth spot checks as appropriate; encourage CDC and FAIM to work expeditiously on this matter in order to obviate violation of the E.O. 12065 on thirty-year-old documents and to minimize the need for the Secretary to confirm their protection.

7. Direct CDC to provide HO with the necessary waiver expeditiously for the handling of Top Secret documents as confidential.

Doc 27



DEPARTMENT OF STATE

Washington, D.C. 20520

May 22, 1980

TO: PA - Mr. Dyess

FROM: PA/HO - David F. Trask *David F. Trask*

SUBJECT: Delay in Publication of FRUS Volumes, 1950-1954

After careful consultation and reflection, I have come to the firmest conclusion that decisive action should be taken immediately to stop all tampering with unpublished volumes in the Foreign Relations series, 1950-1954, both within the Department and at the Central Intelligence Agency.

I should like to meet with you at your earliest convenience to discuss this matter. If we can agree upon a course of action, I would urge that it be proposed to Mr. Carter as soon as possible. Should we differ, I would hope that we could meet very soon with Mr. Carter to deliberate further.

Analysis

Revocation of clearances and re-review of all unpublished volumes entails extensive delays in publication, considerable extra expenditure, and a catastrophic setback for open government. Given these considerations re-review should obviously not occur unless excellent reasons are adduced to justify it. The Office of the Historian has yet to receive any such justifications, either from within the Department or from other agencies. Vague generalizations and unsystematic impressions do not constitute "sound justification."

Re-review has effectively aborted publication of the Foreign Relations series. Given delays resulting from the process of re-review, only one volume can conceivably be published during the remainder of 1980. Even this book, the fourth volume in the set for 1950, had been held up, although it was already cleared, printed, and bound. If re-review leads ultimately to revocation of clearances, the process of reprinting and rebinding will preclude its release before next year at the earliest, despite the fact that the material in it is already 30 years old. In all probability few if any volumes will be ready for publication during 1981 because of the delays that will result from re-review. (For additional details see note below.)

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IPS by *H. Kirby* Date *10/28/11*

The longer PA postpones its reaction against re-review, the less likely it is that the bureau can head off a catastrophe for the Foreign Relations series. Unjustified delay suborns the Administration's policy of open government. Academic users of the series and others will shortly register strong complaints, some of them to the Congress, unless the Department corrects its error. In the present circumstances the Department gives the appearance of scuttling the series. Members of the academic community have already begun to express this view.

In the absence of convincing justification for further delay, we propose to reverse the Department's order to re-review the unpublished volumes for 1950-1954 and to oppose any such suggestion by other agencies.

Action

1. The Historian should immediately inform the Advisory Committee about circumstances that have halted publication of the Foreign Relations series. Garbled versions are already circulating. To correct misapprehension and to avoid the charge of seeking to cover up an unjustified action such notice should be authorized as soon as possible. A draft of such a letter is appended at Tab 1.

2. The Assistant Secretary for Public Affairs should immediately write to Mr. White at the CIA, rejecting the proposal of re-review from CIA. Attached as Tab 2 is copy of a draft of such a letter submitted earlier. This letter could emanate directly from the Office of the Historian, but response from the Bureau would presumably carry more weight.

3. The Assistant Secretary should immediately send a memorandum to Mr. Vest concerning the contents of volume IV for 1950. This volume was supposed to appear at the end of April but was delayed without a showing of the need to hold it up. Attached as Tab 3 is a draft of such a memorandum submitted earlier.

4. The Assistant Secretary should immediately request a meeting of the Oversight Committee. The Committee would be asked to consider the suspension of re-review within the Department. See Tab 4.

5. The Assistant Secretary at the appropriate time would ask for further meetings of the Oversight Committee to consider:

(a) a proposal concerning foreign government information submitted earlier (Tab 5); (b) a proposal to revise 2 FAM 1350, a draft of which was submitted earlier (Tab 6); (c) a proposal to insure that the arrangements for centralized declassification review are followed to the letter. A memorandum noting deficiencies in this regard was submitted earlier (Tab 7).

The measures that should be presented to the Oversight Committee would do much to correct abuse of the system of centralized declassification review. It has broken down because it hasn't been operated according to the directive issued by M. The Office of the Historian does not oppose centralized declassification review as such. It insists that the process has been terribly mismanaged and that drastic action must be taken to avoid further damage. The Oversight Committee was set up precisely to deal with the type of complaints that have surfaced in recent weeks.

NOTE

There follows a discussion of the delays that will result from re-review of unpublished volumes in the Foreign Relations series.

1. The Foreign Relations series covering 1950-1954 includes thirty volumes. Of these six have been published for 1950, three for 1951, and one for 1952-1954, a total of ten. Twenty volumes are in various stages of production.

2. Four volumes have reached the page-proof stage. These are IV-1950; III-1951; V-1951; V-1952-1954. The Office of the Historian planned to release these volumes between April and October 1980.

3. At least eight volumes have reached the galley-proof stage and clearances have been completed or nearly completed. These are VII-1951; IV-1951; I-1952-1954; IV-1952-1954; IX-1952-1954; XI-1952-1954; XIII, 1952-1954; XVI-1952-1954. The Office of the Historian planned to release these volumes during 1981.

Re-review has thrown this schedule into complete disarray. Delay results from:

1. The time required for CDC to complete the re-review. No re-review of any unpublished volumes has yet been completed, despite the passage of two months.

2. When denials are reported to the Office of the Historian, it will appeal certain of them, a process that could take several months or longer. This procedure might entail reference of some materials to other agencies.

3. If bound volumes have to be altered as a consequence of re-review, a lengthy and expensive handicraft process must be used to correct 4000 individual books.

4. If printed pages must be corrected, it becomes necessary to reprint entire "signatures" (usually thirty-two pages) or even larger segments. Reworking of volumes in page proofs will require a minimum of four months to a maximum of a year. Volumes in galley proofs will require at least a year of processing after completion of clearance.

Re-review insures that only one volume can conceivably be published in 1980, namely IV-1950. It is already bound. If revisions are required, it is most unlikely that the changes could be completed in time to permit publication before 1981.

Two other volumes in page proofs (III-1951 and V-1952-1954) might conceivably be releasable in 1981, but the prospect appears dim at this time.

Another volume (V-1951) contains information relating to Iran and may be in limbo for an indeterminate time.

It is most unlikely that any volume now in galley proofs can be published before 1982, given the delays that will result from re-review.

The best possible situation would permit publication of one volume in 1980 and three volumes in 1981.

The worst possible case would be no volumes in 1980 and only one to three volumes in 1981.

If the best possible outcome occurs, the rate of publication over the period 1977-1981 would be:

1977	9 volumes
1978	2 volumes
1979	2 volumes
1980	2 volumes (instead of 5)
1981	3 volumes (instead of 8)

In the best possible case publication during the current Administration will have fallen from 26-27 years behind currency to 30-31 years behind currency. In contrast compilation will have improved from 25-23 years behind currency to approximately 20 years behind currency.

Delays in the publication of the Foreign Relations series now result principally from slowness in declassification. If re-review takes place, the Office of the Historian could conceivably have as many as forty-eight completed but unpublished manuscripts in various stages of production (20 for 1950-54; 12 for 1955-1957; 16 for 1958-1960) on its hands by April 1981.



June 9, 1980

Oversight Committee Meeting, June 5, 1980

SUBJECT : Foreign Relations Re-review

PRESENT : Robert Miller, M/MO, Chairman
Samuel Gammon, M
Clayton McManaway, A/CDC
Laurence Pickering, A/CDC
Paul Washington, PS
William J. Dyess, PA
David F. Trask, PA/HO
William Z. Slany, PA/HO
David M. Baehler, PA/HO

Agenda item 1.A.: Role of CDC -- status, schedule

Mr. McManaway opened the discussion by passing out a schedule for re-review according to which the CDC would be completed with Foreign Relations, 1951-54, by November 1, 1980. He emphasized that the CDC did not welcome the re-review task because it cost the CDC a lot of valuable reviewer time. But he felt re-review was essential because the Archives has indicated dissatisfaction with the 1950-54 guidelines. Mr. Manaway said that these guidelines were inadequate not because of a deficiency in the HO drafting of them but because the bureaus' reviews of the volumes for this period were deficient. Because of this deficiency, the CDC will redraft the guidelines on the basis of the re-review. CDC is exploring the use of contractors for this purpose. Some discussion ensued over this proposal.

Having had the opportunity to examine the schedule Mr. McManaway passed out, Mr. Gammon raised the question of how much longer 1950, v. IV, would have to be withheld from publication on account of the Yugoslav material, now that Tito has died and the Soviets have yet to invade the country. Mr. McManaway said that he would raise the issue with Mr. Vest during a meeting they were to have on 1951, v. III, on Friday, June 6. Mr. Dyess said that he had looked at the questioned material and failed to find anything sensitive about it. He asked to go along with Mr. McManaway to the meeting with Mr. Vest. Mr. McManaway agreed, said he doubted that Mr. Vest would change his mind about 1950, IV, on Friday, but promised to keep after Mr. Vest on at least a monthly basis. Mr. Gammon and Mr. Miller both emphasized the urgency of this question.

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IPS by H. Kirby ^{obtained} Date 10/28/11 ^{not obt.}

A more general discussion ensued about how material deemed de-sensitized in the initial review can become re-sensitized under the pressure of new events. Mr. Dyess said that applied equally to volumes already published. No political repercussions have arisen from re-sensitization of already published records and it was unclear why they should arise from records about to be published. Mr. Miller responded with the observation that the act of publication can be construed abroad as a political statement on the part of the US government. Dr. Dyess then suggested that the schedule for CDC's completion of the review and subsequent publication was very important because the implications went well beyond publication of FRUS to the whole question of sincerity about openness in government.

At that point Mr. Washington indicated that delays should not be a problem because someone in authority at GPO promised a 10-12 week turnaround from submission of cleared manuscript to published volumes. The HO representatives expressed great astonishment, asked if he meant 10-12 weeks for binding alone, and indicated past experience told us to expect a 10-12 month turnaround even after clearance of the galleys. It later turned out that Mr. Washington was talking about GPO capabilities, using its latest technology. It was noted that nearly all of the volumes in question were begun using the old technology, and the turnaround time under these circumstances was lengthening rather than improving.

Noting that Mr. Washington has referred to cleared material in making his projection, Mr. Trask asked for clarification on the classification status of cleared but still unpublished Foreign Relations volumes. Does declassification occur at the point of clearance or at the point of publication? If the former, wouldn't any FOI requester have the right to the already cleared galleys, creating the possibility of privileged access? If the latter, wouldn't GPO have to continue its slow method of typesetting, using only cleared operators who must work on overtime? One suggestion was that the Department could consider the documents declassified at the point of clearance and still continue to deny them to FOI requesters on the ground that they are working papers. The consensus was that the CDC and PA should seek a written legal opinion from L on the question.

In a final comment, Mr. Trask alluded to the statement on the schedule that Mr. McManaway had passed out that re-review of certain volumes was "completed." He said it could not be considered complete until HO received from CDC a formal listing of denials in the volumes in question. After some discussion about the desirability of informal talks, it was agreed that written denials would be the final step in the re-review process. Only upon receipt of these would HO initiate appeals.

Agenda item 1. B.: CIA reclearance issue.

Mr. Dyess recommended that CDC flag anything that it thinks should undergo re-review at CIA but that HO in accordance with regulations should continue to be responsible for communicating with CIA about any such material. Neither Mr. McManaway nor Mr. Miller saw the reason for using this channel, since CDC is in regular contact with CIA on other clearance questions in any case. Mr. McManaway proposed that CDC flag the appropriate records, then call someone over from CIA to have a look at them. Mr. Gammon thought that instead we should stick with the regulations and let HO handle the liaison with CIA on Foreign Relations materials, despite Mr. McManaway's claim that he had responsibility for all declassification activities in the Department. Mr. Miller agreed.

Agenda item 1. C.: Rule of HO -- plan's, schedule

Mr. Trask presented the case against re-review, noting that delays would be extensive and costs would be astronomical. A schedule was circulated projecting HO's specific volume publication dates under various conditions created by CDC's re-review. Mr. Trask thought the total cost of reviewing the 20 volumes in question would be upwards of \$1 million. In view of these factors and the lack of a systematic justification for re-review, he stated that the decision to do so should be revoked.

Mr. Gammon and Mr. Miller rejected this proposal and said that re-review would continue.

Mr. Trask stated that the whole procedure has been decided on in a haphazard manner. He cited as an example the lack of thought given to any provision for appealing CDC decisions arrived at in the course of re-review. After some discussion a consensus emerged that the Oversight Committee would not serve as an appeals panel; rather, appeals would go through the normal chain of command: bureaus, under secretary for political affairs, deputy secretary, secretary. In this connection Mr. Trask noted that the E.O. called for the secretary's certification of withholding 30 year old documents, that this requirement already applied to the material in 1950, v. IV, and that it soon would apply to vast amount of documentation awaiting submission to Archives. Mr. McManaway interrupted with the statement that this certification provision only meant the secretary had to certify withholding categories of documents, not individual documents.

Returning to the question of delay, Mr. Pickering thought that the CDC could meet HO's original publication schedule after it completed the first few volumes scheduled for re-review. He and Mr. McManaway failed to understand how HO could justify the publication schedule just passed around. Mr. Slay explained it in terms

of the delay caused by removing volumes from the clearance and production pipeline and then, after CDC re-review, trying to get them back on track. The sense of urgency that HO has sought to instill in agencies on the need for clearance is also lost by this "loop" within the cycle. Mr. McManaway agreed to help re-instill this sense of urgency, although he claimed that the NSC, for one, did not even know that the State Department was conducting a re-review. On the production question it was agreed that HO, CDC, and PS would jointly work out a schedule based on the 12 week GPO turnaround that Mr. Washington had claimed was possible.

Adverting to the cost question, Mr. McManaway thought that \$1 million was far too high a figure for review costs. In any case, Mr. Miller thought that \$1 million would not be too high even in a period of budget stringency if it saved us some foreign policy difficulties. He thought that publication of post-World War II records would lead to many more such difficulties than had publication of earlier records. This is because there is continuity between the early postwar years and the institutions that developed them and the present. Mr. Baehler said that logically what Mr. Miller said stands up, but that HO has been publishing postwar documents for fifteen years now and has yet to hear a peep of protest from foreign governments reflecting foreign policy difficulties. Until we do, we remain unconvinced of the materials' sensitivity.

Agenda item 2.A.: cost problems -- PBR, HO

All agreed that this point had already been covered.

Agenda item 2.B.: Image problems

Mr. Trask pointed out that the scholarly community was starting to learn of the re-review and the incumbent delays, albeit in a distorted fashion. He explained that this group's influence on the Hill is out of proportion to its size, that its contacts with the right Representatives and Senators on openness issues could make political trouble for President Carter, and that such contacts at the least could cause invoking consultations under the McGovern Amendment. From a more general standpoint, re-review threatens to put the US behind the UK in opening records to the public. Mr. Gammon thought that this outcome would be disastrous. In order to halt distorted views from spreading through the scholarly community, Mr. Trask emphasized, there was urgent need to inform the Advisory Committee of exactly what was happening. No one demurred. Mr. Trask also noted that the Department can use the opportunity of the SHAFR meeting in August to inform the profession of the status of the Foreign Relations series and of the 1950-54 record block.

Mr. Gammon and Mr. Miller thought it would be a good idea to use Mr. Read's talk at the SHAFR meeting to present a common Departmental position on the re-review question. Once the text of the talk is drafted and agreed to within the Department, we can draw on it to inform the Advisory Committee, to respond to the Gardner inquiry, and to answer other questions about the rationale for re-review. The exact procedures for devising a common position were left unclear. Mr. Miller noted that HO had action on the Gardner letter, implying that the draft might serve as a starting point for the rationale. Mr. Trask thought the Gardner letter would have to be an ad hoc response. Mr. Dyess said that the rationale should be cleared in M and L. Who would draft the rationale was left unclear. Regardless of who drafts it, the meeting scheduled at the Department on August 14 for the SHAFR attendees would be another good opportunity to present the Department's rationale.

Agenda item III: Other issues.

Mr. Trask identified two areas he wanted to discuss:

1. Problems of delay - Mr. Trask described the 1955-onward review. In response to Mr. McManaway's question as to what he was getting at, he said the problem is that CDC is seriously behind in re-viewing post-1954 records. Mr. McManaway disagreed, saying that it will not be long until the CDC is well ahead of HO. He repeated that CDC did not want to do the re-review but that he was unable to accept responsibility for release of material at Archives under the guidelines developed from the initial review. He recounted that he had so informed Mr. Blair and had asked him if PA wanted to accept responsibility. When Mr. Blair said no, Mr. McManaway had no choice but to conduct a re-review.

2. Modes of consultation - Mr. Trask noted that the effects of re-review, previously described, might have been avoided if CDC had adhered to the procedures devised for consultation on all policy issues before taking the re-review decision. Consultation bodies included the Coordination Committee and the Oversight Committee. Mr. McManaway replied angrily that the Coordination Committee had been set up only to ease the transition from the old to the new declassification system and that he should know since he wrote the directive.* Mr. Trask said that even if he accepted Mr. McManaway's interpretation, there was a perception extant that the CDC had acted in a very cavalier manner in reaching the re-review decision. Mr. Trask concluded with an expression of concern that the Oversight Committee also had not previously met to discuss the issue. The meeting then adjourned.

* the Directive in question establishes the Coordination Committee as a permanent body.



DEPARTMENT OF STATE

Washington, D.C. 20520

June 11, 1980

TO: S/P - Mr. Lake

FROM: PA/HO - David F. Trask *David F. Trask*

SUBJECT: Use of Dissent Channel: Objection to the Policy of Re-reviewing Classified Information Previously Cleared for Publication in Foreign Relations of the United States

I make use of the dissent channel to appeal the Department's decision to revoke all declassification actions previously taken on twenty unpublished volumes of the series Foreign Relations of the United States and to re-review all such actions. Such a policy has no precedent. It can be justified only in the most extraordinary circumstances. I do not believe that those circumstances exist. I take action only after pursuing the matter through all the normal channels.

The Foreign Relations series is the keystone of the Department's adherence to the principle of open government. Its preparation and publication presents an authoritative, official, and objective record of the nation's foreign policy. It also triggers deposit of the Department's records at the National Archives, where they are opened to the public. If the Foreign Relations series is compromised, so is the Department's commitment to open government. Given the fundamental importance of information in the function of a democratic society, no policy issue can be of comparable importance.

The Department's decision to order re-review is stated in a memorandum dated April 11 from Mr. Read to all assistant secretaries: "We have recently discovered problems with some of the material previously cleared by the bureaus for publication in the FRUS covering the years 1950-1954." Also, "some of these earlier reviews were conducted as long as three years ago, and circumstances have changed substantially in some cases in the interim." No other rationale was offered.

Given the consequences of re-review one would assume that such an action would take place only after the most serious consideration by all concerned parties and the preparation of a comprehensive rationale for the decision. No such consideration occurred and nothing backs up the stated reasons for re-review except unsupported allegations.

Department of State, A/GIS/IPS/SRP

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IPS by *H. Kirby* ^{obtained} Date *10/20/11* ^{not obt.}

Re-review contravenes this Administration's policy of "openness." It entails substantial delays in the publication of the foreign policy record and the transfer of the Department's record block for 1950-1954 to the National Archives. It means that Great Britain, adhering to a "thirty-year rule," will release its foreign policy record for public inspection sooner than the United States. The order to re-review will certainly lead to extensive protests on the part of those who make use of the Foreign Relations series and the records of the Department deposited at the Archives. It will certainly arouse grave concern in Congress because re-review may violate the McGovern Amendment to the Department's Authorization Act for 1979.

These considerations lead me to take the extraordinary step of appealing this policy decision through the dissent channel. I act with the unanimous support of all senior supervisors in the Office of the Historian. I act in the conviction that this step will enjoy universal approbation among other staff members of the Office.

I propose the following:

--that the Secretary of State immediately suspend the order to re-review.

--that the Secretary of State immediately arrange an independent review of the entire issue, one that takes place outside of the administrative channels already exhausted in this situation.

Upon request the Office of the Historian is prepared to present detailed support for its contention that a most careful rationale for re-review must exist before the Department can reconcile re-review with public policy as reflected in EO 12065, FAM regulations relating to the Foreign Relations series and the Office of the Historian, and various legislative prescriptions such as the McGovern Amendment.

Should the investigation uphold the policy of re-review, I propose that the Secretary issue a detailed explanation of the reasons for adopting it so that the Department may respond properly to public concern.

If the investigation does not uphold re-review, I propose that the Secretary of State revoke the order to re-review permanently.



DEPARTMENT OF STATE

Washington, D.C. 20520

Department of State, A/GIS/IPS/SRP

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With concurrence of:
IPS by H. E. Kirby ^{obtained} Date 10/28/11 ^{not obt}
S/P - Ms. Morton

FROM : PA/HO - David F. Trask

SUBJECT : Resensitization as a Rationale for Re-Review

In theory information that has previously been declassified for publication in Foreign Relations of the United States could resensitize during the lapse of time between declassification and publication.

In practice this resensitization rarely happens. HO is not aware of resensitization having ever caused difficulties across the long history of the Foreign Relations series and does not believe that it has occurred in connection with the set for 1950-1954.

No problems have arisen in the past for a number of good reasons:

1. Our editorial practice works against sensationalism.
2. Our modes of releasing the volume work against surprise and publicity, in part to avoid irresponsible use of information in the series.
3. Mandatory declassification reviews under the Freedom of Information Act and EO 12065 and revelations in memoirs and journalistic accounts very often desensitize areas sufficiently so that resensitization is most unlikely.
4. Even in the event of some resensitization continued declassification would very often be justified because of the balancing clause in EO 12065 requiring that the sensitivity of material, especially as it ages, be weighed against the public interest in its release.

In April the CDC became alarmed that information in Vol. I for 1951 would cause great troubles if published. An attempt to abort publication of this volume failed when it became clear that the process of release had gotten beyond the point of no return. It is most instructive to note that not one jot or tittle of reaction to Volume I for 1951 has as yet occurred. We deem it most unlikely that such reactions will occur, and we hold the same view of other volumes as yet unpublished in the 1950-1954 sequence. The burden of proof concerning resensitization should lie with those who argue the case. All prior experience argues that in the cases at issue the likelihood is all but infinitesimal.

Concern about "resensitization" is almost always an aspect of "nervous nellyism" that can prevail in government during periods of stress. It ought to be the function of responsible agencies to resist "nervous nellyism." One way to do this is to insist upon the most comprehensive rationale for any specific claim of resensitization. The Department ought not to allow incantation of formulas to decide cases in which resensitization is alleged. It ought to insist on careful data before it accepts a claim of resensitization. HO has not seen such careful data in the cases being alleged at the moment. The most useful step that the Department could take to guard against resensitization is to do all in its power to expedite publication of FRUS, once declassification actions are completed.

One final word. It is argued that resensitization is much more likely to occur at present and in the future than in the past because of changes in the nature of our foreign relations during the years since 1945. This argument is just plain stupid. It fails to take into account:

a. The fact that the gap now existing between events and our publication of them is far greater than in earlier times.

b. The fact that our role in foreign affairs has come under much more scrutiny since World War II than in earlier years so that public knowledge or all aspects of our foreign relations is quite extensive.

c. The fact that all kinds of open-government practices have prepared the way for fully authoritative and responsible coverage of events that might have been extremely sensitized at a closer remove from currency.

d. The fact that the editors of the Foreign Relations series take appropriate steps to guard against problems of this sort not taken in earlier years.

I have observed a lot of smoke screens in my time, but I recall none as patently ridiculous as this one.

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IPS by AS/Trask obtained notob DEPARTMENT OF STATE
Date 10/28/11 Washington, D.C. 20520

September 9, 1980

TO: S/P - Ms. Morton
FROM: PA/HO - David F. Trask
SUBJECT: Allegations of Foreign Concern About the Foreign Relations Series

In connection with my Dissent Channel message I should like to add the following to the information that I have made available to you.

Increasingly allegations are made that foreign governments are very much concerned about release of information in the Foreign Relations series. Concern is said to emanate primarily from Great Britain and the Commonwealth countries, although a few other countries are mentioned.

For whatever reasons those who air such concern have not chosen to present the evidence for such allegations. I believe this is because no substantial evidence exists. Let me note the following:

1. The Office of the Historian knows of no such concern elsewhere about release of information in the Foreign Relations series.
2. The Office of the Historian believes that concern about the release of information emanating from other countries does not relate to the Foreign Relations series but rather to other types of release, namely, unauthorized leaks of sensitive information and authorized release of relatively recent information obtained through the workings of the Freedom of Information Act and analogous procedures.
3. The Office of the Historian believes that "nervous nellyism" and clientism in the Department could stimulate unreasonable concern elsewhere, and it hopes that steps will be taken to insure that well-meaning but entirely undesirable prompting of other countries will not take place. An ounce of prevention is worth a pound of cure.

I respectfully note that on occasion nervous envoys have assumed that some great disaster would befall the United States, should we release certain kinds of information about the nation to which they are accredited. Such a situation arose some years ago in connection with

planned release of information about certain of our activities just after World War II in Italy. The Office of the Historian has very elaborate procedures to insure against sensationalizing of our volumes. These procedures, since improved, insured that no trouble actually stemmed from the release of the information in Italy. The ambassador was entirely in error in his predictions of doomsday. The point of this story is that the Department keeps reinventing the wheel in terms of fears that somehow, someday, great disasters will flow from publication of the truth many years after the event. Uniformly, after irruptions of such concern, no trouble materializes.

In any event, even if on some future occasion a row materializes, we have to weigh some slight evanescent inconvenience against our responsibility to report the truth at an appropriate time without fear or favor. If we stray from that principle in publishing our foreign-affairs record objectively at a reasonable remove from currency, we will be throwing away one of our strong and undeniable assets in dealing with the rest of the world and informing our own people.

It is of great importance that nervous nellyes are not allowed to use international concern about unauthorized leaks or authorized Freedom of Information releases to injure the Foreign Relations series, about which no comparable body of concern has ever been manifest.

MEMORANDUM

MEETING ON THE APPEAL OF DOCUMENTS IN FRUS, 1951, V. III,
OCTOBER 9, 1980

Participants: Mr. Newsom - P
Ms. Patterson
Mr. Vest - EUR
Mr. Holmes
Mr. Tracy - A
Mr. Pickering - A/CDC
Mr. Malmborg - L
Mr. Gammon - M
Ms. Morton - S/P
Mr. Dyess - PA
Mr. McNamara
Mr. Trask - PA/HO
Mr. Baehler

Department of State, A/GIS/IPS/SRP
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The meeting commenced at 11:40 a.m.

Mr. Newsom stated at the outset that his purpose in calling the meeting was to discuss the appeals package, which he noted had occasioned considerable interest and heat, on documents denied by CDC in FRUS, 1951, v. III. His purpose was not to question the declassification review mechanism embodied in the existence of the CDC and in its relations with the geographic bureaus. Nor was it to question the appeals channel that had been established to resolve disagreements. Speaking of his own role, he said it was natural that he should be called on to resolve differences when basic policy issues arose. Otherwise, when basic policy issues were not involved, he felt the resolution of appeals should occur at the geographic bureau level. He thought that the chain of command was the correct channel for resolving appeals.

He wished to talk about the appeals package for 1951, v. III, which he had read with interest. His first question was: what are our obligations to our allies and to NATO with regard to the release of documents of interest to them? He noted that by 1951, we have a real problem in this respect. He asked Mr. Malmborg to explicate the definition of foreign government information as a means of arriving at an answer to the question.

Mr. Malmborg said the Executive Order defined foreign government information not only as information in other governments' documents, but also as such information in US documents.

Mr. Newsom asked if that was HO's view. Mr. Trask said it was. At Mr. Newsom's behest, Mr. Trask elaborated HO's view, to the following effect: HO has no quarrel with the definition. HO stands on the set of general guidelines signed by the Secretary governing systematic review at Archives. This set provides that foreign government information given orally, reported in US documents, and no longer sensitive is to be released at 20 years. Sensitivity thus becomes the sole criterion for declassification review of such FRUS material.

In response to a question from Ms. Morton, Mr. Trask said that FRUS review is neither systematic nor mandatory review. It is a special administrative review, analogous to mandatory review. He said that CDC's review is also not systematic review. It is intended to provide the basis for guidelines to be used to perform systematic review at Archives.

Mr. Newsom asked who does systematic review. Mr. Trask said that an Archives staff does it by examining the records page by page against Department guidelines. If a given document seems to fall within the guidelines for continued classification, the Archives staff sets it aside and asks for further review by the Department. If the Department then decides to deny declassification, the Secretary must certify the continued withholding of the document for an appropriate period.

Mr. Pickering said that he agreed with everything Mr. Trask said except for his description of the need for the Secretary's certification. He felt that the Secretary had to certify only the guidelines on the basis of which the document is withheld initially, and that authority to withhold individual documents can then be delegated to lower levels in the Department. Mr. McNamara disagreed, stating that PA had an oral opinion from L stating that such authority could not be delegated. Mr. Newsom asked Mr. Malmborg what he thought. Mr. Malmborg did not know. Mr. Newsom thought it would be a good idea to resolve the matter. In the course of this colloquy, Mr. Pickering said that Mr. McManaway had been operating on the basis of the legal view that Mr. Pickering had propounded.

Mr. Newsom then asked Mr. Trask how FRUS fits into the systematic review scheme he had outlined. Mr. Trask explained that the declassification review of FRUS was the basis on which CDC drafted the guidelines that Archives would use to conduct systematic review. It seemed to Mr. Newsom that, according to Mr. Trask's conception, the Secretary would have to certify the withholding of FRUS materials. Mr. Trask said that this was his personal view, but as indicated, FRUS review was not systematic review and the certification provisions of the Executive Order did therefore not directly apply. He was uncertain in what way the Department would resolve this issue.

Mr. Newsom then returned to his original question: what are our obligations to our allies and to NATO? Mr. Trask, referring to the general guidelines, drew the distinction between foreign government documents, which HO clears and will continue to clear with foreign governments, and information in US documents, which HO does not believe the US should clear with foreign governments. Mr. Newsom said that he understood that there was an issue involved in one of the documents in the appeal as to whether to clear it with the French. Mr. Baehler replied that the case was one of a French document that was quoted in part in an American document. HO had excised the quoted portion in response to a French request. The American document containing it did not reveal the same information denied by the French in their own document. Accordingly, HO did not regard as justified the CDC's denial of the US document. At this point, Mr. Vest agreed with Mr. Trask's earlier assertion that the only issue involved was the sensitivity of the foreign government information in US documents.

At this point, Mr. Gammon noted that HO had recognized the sensitivity of the kind of information under discussion in the past and had agreed not to release it even though legally the US could have done so.

Mr. Newsom asked if EUR thought that some of the NATO military planning reflected in the denied material was still sensitive. Messrs. Vest and Holmes indicated that it remained sensitive because it portrayed the evolution of NATO planning; from this information enemies of the US could extrapolate present plans existing in NATO. Mr. Dyess asked if EUR was concerned with delivering the same sort of message as that allegedly transmitted by the Acheson statement in early 1950 asserting that Korea was outside the containment perimeter, a statement that allegedly led to the Korean War. Both Mr. Vest and Mr. Holmes indicated that this was it precisely. Mr. Newsom then asked if what Messrs. Vest and Holmes were saying was that publication in FRUS gives the documents a status of such magnitude that the information could be read by an enemy to be a signal or an official US government statement. Again, Messrs. Vest and Holmes agreed that this was their meaning.

At this point, Mr. Pickering broached the issue of the secrecy agreement made in NATO concerning admission of Greece and Turkey to NATO in 1951. Mr. Newsom said he had planned to come to this. Mr. Newsom inquired about the content of the agreement. Mr. Pickering said it was contained in a document under appeal and that it constituted unanimous assent to keep records of NATO discussion of the issue from Greece and Turkey. Mr. Newsom asked if the agreement had included keeping secret the records of the discussion maintained by individual countries or if Mr. Pickering was "extrapolating" this interpretation from the agreement. Mr. Pickering said it was an extrapolation.

Reverting to the sensitivity question (as opposed to the foreign government information arguments) Mr. Newsom asked Mr. Vest for an objective answer to the question of whether he really thought there was a good possibility the release through FRUS of the records relating to admission of Greece and Turkey to NATO would end up in Greek and Turkish newspapers and would as a consequence present our negotiators with a problem. Mr. Vest replied that he thought there was a high probability of this happening because the Greek press was given to sensationalism on the subject and because the Turkish press was given to distorting the issue at the slightest pretext.. Mr. Newsom asked how long it would be before the Foreign Relations volume in question is published if deletions were made that required a revision of the volume. Mr. Trask replied that it would be six or eight months at the earliest.

Mr. Newsom asked if the problem would be resolved once the re-integration negotiations are completed. Mr. Vest thought not. The sensitivities on the subject transcended the issue of whether to re-integrate Greece into NATO. Mr. Newsom asked, in view of that, when they could be released. Mr. Pickering said that the CDC sets an automatic re-review date of ten years from the initial denial and that the Department would take another look at that point. Mr. Newsom then asked if the documents relating to Greek and Turkish admission to NATO would be withheld under FOI. Mr. Pickering said that they would be withheld. Mr. Newsom asked if the denial would be sustainable in court. Mr. Pickering said it would be.

Mr. Vest then offered the view that any discussion of Yugoslavia in the NATO forum would be very sensitive now because of the instability of the Belgrade government.

Mr. Newsom then rendered a decision: Given the Greek and Turkish problems that currently exist for US policy, he would recommend withholding the material on Greek and Turkish admission to NATO until after the reintegration negotiations have been completed. The decision to withhold would be re-examined at that time. He further recommended that the references to Yugoslavia in the NATO context should be withheld pending the stabilization of the situation in that country. He recommended that the materials relating to NATO military planning in the event of war be released as no longer sensitive.

Mr. Pickering objected to the final decision on the grounds that it is still sensitive information. He thought the sensitivity could be reduced if the exact language were deleted and a footnote substituted for it.

Mr. Newsom asked Mr. Trask if this was a possibility.

Mr. Trask responded that the information should be released for three reasons:

1. The plans referred to in the documents were short-term plans that became obsolete within a short period. They are accordingly no longer sensitive.

2. The presentation of the information in its full context minimizes the chance that others might misunderstand the US reasons for publishing it. The series has been published for 120 years and foreign governments understand that its purposes are other than for delivering a political message. Its goal is to inform the American public of its government's activities in the foreign policy area.

3. As the documents become older, the balancing test must become more and more prominent in deciding whether to release. The possible damage of release to national security must be weighed against the right of the public to the information.

Mr. Newsom explicitly recognized the validity of the last point, noting that it would be wise to consider whether angering the scholarly community would be worth withholding the information on national security grounds. With that, Mr. Newsom confirmed his earlier recommendations. He then asked whether Mr. Trask thought the Secretary had to certify the withholding of the documents for Mr. Newsom's recommendations to have legal validity.

Mr. Trask offered the opinion that the Secretary did not at this point have to certify the withholding of FRUS material for the following reasons: 1) There presently exists uncertainty about whether materials older than 20 years have to be certified for withholding during the ten-year period allowed agencies by the Executive Order to reach the 20 year systematic review line; and 2) FRUS declassification is requested as a special administrative action and is not in any case covered during the ten-year catch-up period by the certification provisions of the Executive Order. He indicated that HO's only interest was to obtain a high-level hearing. He was satisfied that the material in question had received a high-level and serious review. He felt that the burden of deciding appeals should be transferred to an independent appeals panel.

Mr. Newsom thought that it was not yet the time for establishing such a panel. He confirmed his opinion that the present appeals system was workable.

Mr. Pickering returned to Mr. Newsom's decision to release NATO military plans material. He stated that Mr. McManaway was currently discussing with the NSC a policy on releasing materials on military planning. He wished to defer a decision until such time as Mr. McManaway could work out a policy on the issue.

Mr. Newsom asked whether this proposal was all right with Mr. Trask. Mr. Trask responded that it was.

The meeting adjourned at 12:25 p.m.



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DEPARTMENT OF STATE

Washington, D.C. 20520

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Date 10/20/11

October 14, 1980

OFFICE OF THE HISTORIAN
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DEPARTMENT OF STATE

DISSENT CHANNEL

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TO: PA/HO - Mr. David F. Trask
FROM: S/P - Anthony Lake
SUBJECT: Re-Review of 1950-54 Material for Publication
in Foreign Relations of the United States

As you know, your dissent to the Department's April 1980 decision to re-review the sensitivity of material scheduled for publication in Foreign Relations of the United States for the years 1950-54 has received very careful and detailed consideration. The issues you raise are important. That you elected to raise them at the highest levels of the Department has served to sharpen the focus of those concerned on the dual role that the Department performs: it is responsible both for conducting the diplomacy of the United States and for helping to preserve and meet the public's right to know about the foreign affairs of their nation.

I agree with you that the Foreign Relations series is central to the Department's adherence to the principle of open government. The specific decision you question, however, was justified, in our view, when it became apparent that the decentralized nature of previous reviews of the 1950-54 material and events transpiring during the relatively long period of time that elapsed between some of the initial declassification actions and the dates of planned publication combined to allow material to be authorized for publication, the release of which would either:

- (1) tend to impede current diplomatic negotiations or other business;
- (2) fail to preserve the confidence reposed in the Department by individuals and by foreign governments;
- (3) give needless offense to other nationalities or individuals; or
- (4) reflect personal opinions presented in internal communications and not acted upon by the Department.

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Although the number of similar instances of inappropriately cleared material expected to be revealed by the re-review was small, their negative impact upon our ability to conduct an effective diplomacy was properly deemed large enough to warrant the time and effort necessary to identify and remove them from the galleys of the 20 volumes of FRUS that had not yet been published for the years 1950-54.

Your concern about the adverse public impact of any significant delay in the scheduled publication of FRUS is one that we share. As you know, the 20 volumes in question were in various stages of the previously-mandated clearance process when re-review was initiated. In order to expedite publication in keeping with our public affairs responsibilities and the recent E.O. 12065 injunction to declassify foreign affairs information as early as national security considerations permit, the Department undertook measures designed to insure that re-review and publication of the 1950-54 FRUS material proceed as rapidly as possible.

The cooperative efforts of HO, CDC, and the regional bureaus in this endeavor have been crucial. We are informed that re-review by CDC has yet to be completed on only 6 of the 20 volumes in question. In addition, measures have been taken on an experimental basis to expedite publication by declassifying galley proofs in the final stages of publication so that more people can work on them. CDC anticipates that their part of the re-review effort will be completed by November 1, 1980.

The major remaining sources of publication delay appear to fall within two areas. First, there is the process necessary to adjudicate specific classification/declassification decisions contested by CDC and the regional bureaus on one hand and PA representing HO on the other. Mr. Newsom has been working on this problem with those concerned. Second, there is competition for the provision of central services needed to expedite the publication process. I understand the Department is working on this as well.

Finally, I agree with you that the importance and inherent difficulty of reaching decisions that balance national security concerns against the public's right to

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know about the history of our foreign policy is such that it is incumbent upon all of us in the Department who deal with such matters to follow scrupulously the procedures designed to insure that policy decisions in these matters are carefully weighed. In this regard, the Oversight Committee and the Coordination Committee established by Mr. Read's memorandum of November 20, 1978 setting up the Department's Classification/Declassification system should be used to their fullest extent, with regularly scheduled meetings in addition to special meetings, as necessary, at the request of PA, CDC, or interested regional bureaus. In particular, the Oversight Committee should be convened whenever a request is made to re-review material previously declassified in accordance with FAM 1350.

Let me again express appreciation for your provocative and useful dissent message.

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IPS by H. Kirby Date 10/28/11MEMORANDUMMEETING WITH AD HOC COMMITTEE OF OAH ON FOREIGN RELATIONS, 10/17/80

Participants: Walter LaFeber
 Lloyd Gardner
 David Trask
 William Slany
 David Baehler

Mr. LaFeber opened the meeting by stating that the Committee's mandate was to examine the effects of current declassification practices on FOI and the Foreign Relations series. They particularly wanted to talk about the Foreign Relations series, HO's relations with the CDC, and the status of the volumes undergoing re-review.

Mr. Trask described the earlier system of review, which was characterized by decentralization, and the origins of the CDC, which came into existence as part of the Department's effort to implement the new Executive Order on declassification. He then described the CDC as divided into a mandatory review staff and a systematic review staff that examines the material HO presents.

At that point Mr. LaFeber asked whether there were any historians on the CDC staff. Mr. Trask replied that there were not and resumed his description of the CDC. Its main purpose, he said, was to develop guidelines to be used at Archives in the course of systematic review. HO assists in that process by providing a sample of documents from which the Foreign Relations series for that period was compiled and that includes the documents incorporated in the compilation. The sample is large because the Department considered it necessary to derive the guidelines from a substantial representative portion of the Department's files and because it will be in the interest of HO to declassify a large body of material when it adopts a microform supplement to the FRUS volumes.

In clarification of a point, Mr. Gardner asked whether the act of declassification within the CDC had the effect of declassifying any documents outside of the sample. Mr. Trask replied that it did not.

Mr. LaFeber then asked who was doing the re-review of the 1950-54 volumes. In reply, Mr. Trask noted that his description of the CDC's procedures applied to the 1955 and later records and that the re-review was a special case. To answer the question posed by Mr. LaFeber, Mr. Trask described the transfer of records to Archives and noted that the Archives demanded guidelines from the transferring agency before it would accept the records. He stated that HO assisted by formulating a

set of "general guidelines" that all bureaus approved and the Secretary of State sent to Archives. In addition to these, there was required a supplementary set of "special guidelines" that HO also drafted for the 1950-54 period based on the bureau actions and submitted to the CDC for its and the bureau's approval. That set was derived from the declassification actions that the bureaus had taken in the course of their reviews of the 1950-54 FR volumes. The CDC determined that these special guidelines failed to cover adequately the areas of sensitivity with which the Archives would be confronted when the declassification staff there conducted its systematic review. The CDC made this determination on two bases: the initial bureau review had been inadequate, and the material in the period since that review had become resensitized. Mr. Trask noted that HO was not involved in this determination because HO is not responsible for either declassification or transfer of records to Archives. He noted finally that the decision to conduct re-review had been taken and confirmed at the highest levels of the Department, including Mr. Newsom, by virtue of his activities in connection with appeals of certain negative re-review decisions.

Mr. LaFerber then said that two things bothered him about the existence of the new declassification system in the Department. First, why are there no historians on the CDC staff? Second, does not the new system amount to bureaucratic layering, since the bureaus seem to have the final say on what is declassified in any case? Mr. Trask replied that, with regard to the first question, HO had no say on how the CDC would be staffed. Mr. Slany added that there would exist a conflict of interest if historians from HO were made part of the CDC. Mr. LaFerber indicated that he did not mean to imply that the historians would have to come from HO. He went on to say, with regard to his second point, that the Office had better luck obtaining declassification decisions when it dealt directly with the desk officers than it now does in dealing with the CDC as an intermediary.

Mr. Gardner asked if the only mechanism for appealing negative decisions was to appeal directly to Mr. Newsom. Mr. Trask replied that it was not. In fact, three levels of appeal existed: (1) the CDC; (2) the assistant secretaries concerned; and (3) Mr. Newsom.

Mr. LaFerber pursued the point by inquiring whether the decisions taken by the CDC and through the appeals mechanism would have the effect of setting precedents for the 1955 and later records. He went on to say that he feared the guidelines derived from re-review would set in concrete the same denial principles for all later periods. Mr. Trask replied that he was not prepared to go into specifics, but was able to say that HO appealed as a matter of principle all deletions deemed to be in error that would have a precedent-setting effect.

Mr. Gardner then asked if Mr. Trask could quantify the results of re-review in comparison with the actions that the bureaus and desks had taken earlier. Mr. Trask said that he could not because it was too early in the process to tell. Mr. Gardner replied that someone in the State Department was able to do so, because that person had responded to a letter he had written to Senator McGovern by asserting that somewhat less than 1% of the records would be withheld by the CDC. He stated that his original information to the effect that 20% of all materials was being withheld by the CDC had been reconfirmed by his sources. Mr. Trask replied that Mr. Gardner had probably received a grossly inflated estimate, based on our experiences so far with the CDC. Mr. Gardner then suggested a modification of the claim that 20% of the documents might be withheld, and asked whether HO would agree to it: Is it possible that 20% of a given compilation, such as, hypothetically, the Saudi Arabia compilation, might be withheld and would such action effectively cut the heart of the compilation? Mr. Trask responded that this was hypothetically possible but that we had not received any indication that such a thing had in fact happened. Mr. Slany said that the same thing could happen if even only 1% of a given compilation was withheld.

Mr. LaFeber asked if everything had been declassified for the 1950-54 period before re-review occurred. Mr. Baehler replied that this was by no means the case, although it is true that virtually everything had been through the clearance prior to the inception of re-review.

Mr. Gardner then returned to the issue of whether the results of re-review would have the effect of setting a bad precedent. He claimed that re-review was initiated on the premise that more would be withheld from publication than would have occurred under the first review. He asked whether he could quote Mr. Trask to that effect. Mr. Trask replied that he could not because it is too early from the standpoint of CDC returns to tell how much would be withheld. Mr. Slany noted that the process is at this point one of constant give and take and that there have been probably forty meetings between representatives of CDC and HO to work out understandings on withholding documents.

Mr. LaFeber asked what role HO had on elaborating the general guidelines that would be used at Archives for systematic review. Mr. Trask replied that HO's only role was advisory. Responding to Mr. LaFeber's view that the general guidelines would permit such restrictiveness in Archives review as to render nugatory the intent of the Executive Order, Mr. Trask said that these guidelines established sensitivity as the only criterion for withholding material under systematic review. He pointed specifically to the foreign government information provision in the guidelines: These provide that such material in US documents over 20 years old should be released unless it remains sensitive. HO in the

course of the re-review process is insisting that sensitivity is the sole criterion for withholding material from the FR series.

Mr. Slany noted that in view of the fact that we have no basis on which to judge the substantive results of re-review the sole visible effect of re-review at this point is that it occasions considerable delay in the publication of volumes. Heretofore, only one volume of the twenty undergoing re-review has run its full course and is at GPO for printing. HO had expected that by this time several more would be at that stage.

Mr. Gardner said that he had a suggestion to make regarding a way to get around the problems that CDC was presenting for the FR series. In view of the series' mandate to present a comprehensive account of the history of American foreign relations, he thought that the best means of resolving any issues presented by re-review would be simply withholding from publication any volume that proved to be less than complete on any important issue. He would recommend such a course of action if, for example, 10-20% of the Saudi Arabia compilation were denied in the declassification process. Mr. Trask assured him that if important coverages were omitted as a result of declassification action, HO's policy would in fact be to withhold the volume. Mr. Gardner asked whether HO was planning to remove documents in order to publish the volumes. Mr. Trask replied that there were various expedients for dealing with this problem ranging from simply removing documents if they were not important through substituting other documents for the deleted material to withholding the volume from publication until the documents were declassified.

Mr. Slany replied to Mr. Gardner's affirmation of comprehensiveness as the prime criterion guiding the FR series by pointing out that HO's lack of access to other agencies' files compromised this principle, quite apart from unfavorable declassification actions. He said that access was the other half of the declassification coin. Mr. Gardner said that he recognized this.

Mr. LaFeber asked what triggered the change in the declassification system. Was it complaints from foreign governments, he asked? Mr. Trask replied that this was a more appropriate question for the CDC, but that he was not aware of any foreign government complaints regarding publication of documents in the FR series. Mr. LaFeber continued that if the change was not induced by foreign government complaints, then it must be internally generated. Mr. Trask replied that the CDC came into existence as part of the Department's response to the new Executive Order on classification. He noted that there were concerns within the Department regarding foreign government information and explicated once again the manner in which such information is to be handled.

Mr. Gardner stated that the new Executive Order flagged foreign government information contained in US documents and said that, even if the State Department was handling it sensibly, other agencies seemed not to be doing so. Pursuing the point, Mr. LaFeber referred to the 30 year foreign government information guidelines that in his opinion would make it even harder for HO to release the information that was previously routinely released under the old Executive Order. Mr. Baehler noted that these 30 year foreign government information guidelines do not apply to the work done by HO because HO requests declassification earlier and under special procedures to which the systematic review of 30 year old information does not apply. Mr. LaFeber had not realized this, but thought that the existence of restrictive guidelines for systematic review at thirty years would make the release of material under other reviews even more difficult prior to thirty years. Mr. Trask drew the distinction between systematic review and the review that FR undergoes and said that whatever provisions exist for systematic review do not affect review of FR. He said that the presumption of the Executive Order and particularly of the balancing test provision contained in it is that more material is going to be released earlier.

Mr. Gardner responded that in theory this made sense but in fact the Executive Order has not resulted in the release of more material and that it would be wrong to assume that the guidelines currently existing for systematic review will not affect the amount of material that is released in FR. Mr. Trask replied that he was unwilling to confirm the point of view expressed by Mr. Gardner.

In closing, Mr. Trask emphasized that HO itself did not undertake declassification or transfer of records and that the representatives should talk with CDC and FAIM to get a first-hand account of their actions and the reasons for them. Mr. Gardner assured Mr. Trask that they intended to do so. Mr. Gardner indicated that the committee needed certain information from HO and that this was the reason for the present discussion. As an afterthought, Mr. LaFeber having left the room, Mr. Gardner asked how many volumes have been through re-review. Mr. Baehler replied that there are several stages in the process, but, as indicated earlier, one volume had run the full cycle. Five other volumes were in the appeals stage, which meant that the CDC was effectively finished with its review work. The remaining 14 volumes were nearing completion. Mr. Trask suggested that Mr. Gardner talk with the CDC, which would give him a different version of how much has been completed. Mr. Gardner also asked how long it would take to complete the appeals. Mr. Trask replied that he did not know because it depends on how expeditiously the CDC submits the results and how acceptable those results are. Mr. Slany interjected that the CDC is seeking ways to

minimize the delay occasioned by the re-review in the area of technical production of the volumes. It remains to be seen how successful these efforts will be.

Mr. Gardner closed by reiterating his concern that HO not sacrifice the comprehensiveness of the series in the effort to attain the twenty year line. Mr. Trask replied that HO desired both to maintain -- indeed to enhance -- the comprehensiveness of the volumes and to attain the twenty year line. He thought that in the long run the existence of the CDC would abet reaching the latter goal.