

TITLE OF CONTRACT APPLICATIONS

ARTICLE _____ Filing of Patent Applications.

(a) While and so long as the subject matter of this contract is classified by the Department of the Army as "Confidential", Contractor agrees to furnish, at the time of or prior to filing or causing to be filed a patent application disclosing any of the subject matter thereof, a copy of such application for patent to the Contracting Officer or his designee for a recommendation by the Department of the Army whether such application should be ordered to be kept secret under pertinent statutes or otherwise withheld from issue by the Government for reasons of national security and will faithfully observe any instructions of the contracting officer or his designee in that regard.

(b) While and so long as the subject matter of this contract is classified by the Department of the Army as "Secret" or higher, Contractor agrees that, before filing or causing to be filed a patent application disclosing any of the subject matter thereof, the Contractor will refer the proposed application to the Contracting Officer or his designee for a recommendation by the Department of the Army whether such application should be ordered to be kept secret or otherwise withheld from issue by the Government for reasons of national security and will faithfully observe any instructions given by the Contracting Officer or his designee in that regard which instructions may include a direction not to file the same so long as the Contracting Officer or his designee deems such action necessary in the interest of national security.

(c) While and so long as the subject matter of this contract is classified "Confidential" or higher, Contractor agrees upon request of the Contracting Officer or his designee to assign and convey to the Government the entire right, title and interest in and to each United States patent application, disclosing the said subject matter or any part thereof, filed by or on behalf of Contractor, which Contractor is not obligated to assign to the Government by virtue of any other provision of this contract, the title to the assigned patent application to be held in trust by the Government subject to reversion of the entire right, title and interest therein to Contractor upon allowance of the said application or upon declassification of the subject matter of the same, whichever is earlier, provided, however, that nothing contained in this paragraph shall enlarge or diminish the rights otherwise granted to or reserved by the Government or Contractor in respect to said application or the invention covered thereby except as and to the extent herein expressly provided.

(d) While and so long as the subject-matter of this contract is classified "Restricted", contractor agrees he will not, without previous written authorization from the Government in each case, permit the issuance in the United States of a patent disclosing such

subject-matter or a material part thereof, nor file in any foreign country an application for patent disclosing the said subject-matter or a material part thereof.

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STATE-ARMY-NAVY-AIR FORCE COORDINATING COMMITTEEINDUSTRIAL SECURITYReferences: a. SANACC 386
b. SANACC 386/1Note by the Secretaries

1. The enclosure, a report by an ad hoc Committee in response to reference a, is circulated for consideration by the Committee as a matter of PRIORITY.

2. The SANACC ad hoc Committee on SANACC 386 was originally created to study the problem of controlling foreign visitors to U.S. industrial plants. In proceeding with this study, it was determined by the ad hoc Committee that there were many other security problems of extreme importance which should also be studied and included in this report. The Committee informally queried SANACC as to whether it should adhere strictly to its terms of reference or should cover the problem of industrial security in its broadest aspects. The ad hoc Committee was advised to proceed with the more comprehensive study. This report, therefore, attempts to consider and make recommendations on all appropriate and desirable measures that may be employed to deny access by a potential enemy or enemies to the industrial, technological and scientific knowledge of the United States which is vital to the national security.

H. W. MOSELEY

W. A. SCHULGEN

V. L. LOWRANCE

V. F. FIELD

Secretariat

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~~SECRET~~E N C L O S U R EA Report by the Ad Hoc CommitteePROBLEM

1. To consider and make recommendations on all appropriate and desirable measures that may be employed to deny access by a potential enemy or enemies to the industrial, technological and scientific knowledge of the United States which is vital to the national security.

FACTS BEARING ON THE PROBLEM

2. See Appendix "A".

DISCUSSION

3. See Appendix "B".

CONCLUSIONSPart I - General

4. It is concluded that:

a. In the United States a total security program is impracticable and undesirable, in that it would be incompatible with the political and economic system upon which the superior war potential of the United States rests, and might impede the flow into the United States of the knowledge in pure science of which this country is a "net importer".

b. Access to industrial, technological and scientific information of primarily military value can in part be denied more effectively to a potential enemy by the steps recommended in Part II of the Conclusions.

c. Access to industrial, technological and scientific information of military value because of its contribution to industrial potential, cannot be

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effectively denied to a potential enemy, in so far as information which is habitually published and made generally available under our political and economic system is concerned, as distinguished from direct assistance with respect to "know-how".

d. Knowledge and assistance as to the practical application of the kind of information referred to in c above can in part be denied more effectively to a potential enemy by the steps recommended below in Part II of the Conclusions.

e. Without failing to make the most of all practicable and desirable means of denying a potential enemy access to important industrial, technological and scientific information, it is clear that the principal security reliance of the United States must be on positive measures to maintain and increase the strength of the United States in all the ways most relevant to survival in the type of conflict in which we are engaged, i.e. militarily, economically, and in the protection and development of the intangible values peculiar to democracy and upon which the morale and fighting spirit of our people will principally depend.

Part II - Implementation

5. It is concluded that the following action should be taken with respect to the subjects listed below:

a. Unclassified Technological Information.

(1) That the Departments of State, Navy and Air Force support the Department of the Army in urging upon the Congress the passage of the amendments to the Patent Secrecy Act as contained in H.R. 4420, of the 80th Congress (Annex "D" to Appendix "A").

(2) That the four Departments* take appropriate

* The Departments represented on SANACC.

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steps to secure the submission to the Congress of the proposed Technical Aid Contract Registration Act (Annex "E" to Appendix "A").

b. Classified Information.

(1) That the Secretary of Defense consider the establishment of a central industrial security office with appropriate power and personnel to exercise the functions which are designed to keep classified Armed Forces information from falling into the hands of potential enemies of the United States (Annex "F" to Appendix "A").

(2) That, subject to the approval of the Secretary of Defense, appropriate steps be taken to secure the submission to the Congress of the proposed Bill to increase the powers of the Secretary of Defense under the classification system which is designed to take appropriate measures to protect national defense materials, premises and utilities from injury or destruction. (Annex "G" to Appendix "A")

(3) That the Departments of the Army, Navy and Air Force consider and make joint recommendations to the Secretary of Defense as to whether the system of classification should be extended, either in administration or application, so as to achieve more effective security.

c. Public Education.

(1) That a central office be created by the Secretary of Defense for the development and administration of a program of public education in accordance with the recommendations in Annex "H" to Appendix "A".

(2) That this central office give further careful consideration to the question of whether a program of wider scope, dealing with the entire problem of industrial security, is practicable and desirable.

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d. Control over Aliens.

(1) That the four departments take appropriate steps to bring about the establishment of a Centralized Record of Aliens within the Immigration and Naturalization Service, as recommended in Annex "I" to Appendix "A".

(2) That the Department of State should request all civilian Departments and Agencies of the Government to refer to it all requests made to them by Nationals of the Soviet Union or its satellites, and of such other countries as the State Department may designate from time to time; for assistance or services for which there is not an established procedure.

(3) That the four Departments in consultation with the Department of Justice, and other interested Departments or Agencies of the Government take steps to exercise by administrative action such controls as may be desirable and practicable over nationals, in the United States, of the Soviet Union and its satellites, and of such other countries as the Department of State may designate from time to time.

e. Counter-intelligence activities.

(1) That the four Departments should support the amendments to the Espionage Act in the Bill Relating to the Internal Security of the United States (Annex "J" to Appendix "A").

(2) That the four Departments in consultation with the Department of Justice and other interested Departments or Agencies of the Government, should consider and make joint recommendations to the National Security Council of measures to extend, strengthen and coordinate counter-intelligence activities in the field of security of industrial, technological and scientific information.

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f. Continuous review.

Finally, that the problem of industrial security is of sufficient national importance to warrant a permanent inter-departmental committee for its continuous review with representation including the Departments of State, Army, Navy, Air Forces, Justice and Commerce.

RECOMMENDATIONS

6. It is recommended that:
- a. SANACC approve the foregoing conclusions.
 - b. Upon approval, this report be sent to:
 - (1) the National Security Council for consideration,
 - (2) the Department of Justice, the National Security Resources Board, the Joint Chiefs of Staff and the Munitions Board for information,
 - (3) The Departments represented on SANACC for action as indicated.

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Enclosure

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~~RESTRICTED~~ANNEX "E" TO APPENDIX "A"UNCLASSIFIED TECHNOLOGICAL INFORMATION COMMITTEE
PROPOSED TECHNICAL AID CONTRACT REGISTRATION ACTA BILL

To provide for the registration of certain disclosures of applied technological information effected through technical aid contracts.

Whereas, the free interchange of scientific information tends to increase the productivity of all nations; and

Whereas, it is the objective of the United States to increase the standard of living of the peoples of all peace-loving nations and to avoid the enhancement of the military potential of aggressor nations;

Therefore, be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled that,

SEC. 1. (a) No person pursuant to a technical aid contract shall disclose or agree to disclose applied technological information to any foreign government, or to a national or agent of a foreign government, unless he has registered such disclosure or such agreement to disclose with the Secretary of Commerce, and such registration statement has become effective; Provided, however, that this Act shall not apply to the disclosure of or agreement to disclose information through the distribution of technical or scientific publications or information which has appeared in such publications, and provided further that such publication has not been accomplished for the purpose of circumventing this Act.

(b) The Secretary of Commerce shall have the power to refuse effective registration for a disclosure, or agreement to disclose which is subject to the provisions of Section 1 (a), where the Secretary of Commerce, in consultation with the Secretaries of State and Defense, has made a finding that the

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proposed disclosure or agreement to disclose encompasses applied technological information the disclosure of which is detrimental to national security.

SEC. 2. As used in this Act --

(a) "Technical aid contract" means a contract to disclose applied technological information.

(b) "Applied technological information" means technical information or "know-how" which is necessary for the construction or operation of industrial plants or pilot models thereof.

(c) "Applied technological information the disclosure of which may be detrimental to national security" means applied technological information which falls within a category that the President, by rule or regulation, has designated as a category of information the disclosure of which would substantially and directly increase the military potential of any foreign country. In making the designations required by this provision, the President shall consult with appropriate representatives of industry.

(d) "Person" includes any individual, trustee, corporation, partnership, association, firm, or any other combination of individuals.

SEC. 3. (a) Any proposed disclosure or agreement to disclose applied technological information to any foreign government or to a national or agent of a foreign government, pursuant to a technical aid contract shall be registered with the Secretary of Commerce by filing a registration statement in triplicate, at least one copy of which shall be signed by the person disclosing the technology, or causing or authorizing the technology, or causing or authorizing the technology to be disclosed, or by his duly authorized representative. Such registration statement shall contain such information, including a copy of the proposed agreement or a description of the proposed transaction, as the Secretary of Commerce shall by rule or regulation prescribe.

(b) The effective date of a registration shall be the thirtieth day after the filing thereof or such earlier date as

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the Secretary of Commerce may determine, except that the Secretary of Commerce may prescribe not to exceed two additional thirty-day periods before the registration statement becomes effective, unless the Secretary of Commerce pursuant to Section 1 (b) refuses such effective registration prior to the effective date thereof. If any amendment to any such statement is filed prior to the effective date of such statement, the registration shall be deemed to have been filed when such amendment was filed.

(c) The Secretary of Commerce shall prescribe such rules, regulations, and forms as are necessary or desirable to carry out the provisions and policy of this Act.

SEC. 4. Any person who violates this Act, or any rule or regulation promulgated hereunder, by knowingly failing to register a disclosure or an agreement to disclose as required by this Act, or who makes, or causes to be made, any false or misleading statement in any form or report required to be filed by any rule or regulation promulgated under this Act, shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be punished by a fine not exceeding \$5,000 or by imprisonment not exceeding one year, or by fine and imprisonment, in the discretion of the court.

SEC. 5. In the event of any failure or threatened failure to comply with the provisions of this Act or any rule or regulation promulgated hereunder, the Secretary of Commerce shall report the failure to comply to the Attorney General who may institute a suit, in any district court of the United States (or in any other United States court of original jurisdiction in the territories or possessions of the United States outside continental United States), for a mandatory injunction to compel full compliance therewith.

SEC. 6. Nothing contained in this Act shall be construed to alter, modify, or repeal the Atomic Energy Act of 1946, the Espionage Act of 1917, as amended, the Antitrust Act or the Acts to regulate commerce or to protect the security of the

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United States, or any part or parts thereof. The reporting of any disclosure of information which comes within the terms of this Act shall not confer any immunity from prosecution under or from the enforcement of the provisions of the Atomic Energy Act of 1946, the Espionage Act of 1917, as amended, the Antitrust Acts or the Acts to regulate commerce or to protect the security of the United States.

SEC. 7. The prohibitions and penalties of this Act shall not apply to any officer or agent of the United States acting within the scope of his authority, Provided that any officer or employee of the government who shall make public any information obtained under the provisions of this Act without the authority of the Secretary of Commerce, unless directed by a court, shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be punished by a fine not exceeding \$5,000, or by imprisonment not exceeding one year, or by fine and imprisonment, in the discretion of the court.

SEC. 8. The authority conferred upon the President in this Act as now or hereafter amended may be delegated by him to such persons in the Federal establishment and to such extent as he may deem proper, with or without authority to make successive redelegations.

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To restrict access to classified contracts of departments, boards, agencies, or offices under the jurisdiction of the Secretary of Defense and work in accordance therewith and to authorize the Secretary of Defense to establish and maintain military guards and patrols and to take other appropriate measures to protect national-defense material, national-defense premises, and national-defense utilities, from injury or destruction.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that

SEC. 1. No person shall be employed as an office, director, agent, servant, or in any other capacity by a contractor in the performance of contracts of any department, division, bureau, agency, board, service, corps, or other office under the jurisdiction of the Secretary of Defense, when such contracts are classified as "top secret" or "secret", nor shall any person be permitted to have access to the plans or specifications or the work under such contracts, or to participate in the contract trials, unless such contractor has first obtained the written consent of the Secretary of Defense, authorizing the employment of such person as an officer, director, agent, servant, or in any other capacity, by such contractor, or authorizing the access by such person to the plans and specifications or the work under such contracts, or the participation in the contract trials thereunder.

(a) Any contractor who violates any provision of this Act shall be fined not more than \$10,000 or imprisoned not more than five years, or both.

(b) For the purposes of this Act the term "contractor" means an individual, partnership, association, corporation, or other business enterprise or any employee thereof.

(c) For the purposes of this Act the terms "top secret" and "secret" are construed as currently defined in

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appropriate Army, Navy, and Air Force regulations, respectively.

SEC. 2. The Secretary of Defense shall establish a board, with appropriate representation of the Departments of the Army, the Navy, and the Air Force, to advise him in the execution of his responsibility under SEC 1 of this Act, and such board shall function under such procedures as he may prescribe.

SEC. 3. Upon declaration of a state of emergency by the President of the United States, the Secretary of Defense, whenever he deems such action to be necessary or desirable, is authorized to establish and maintain military guards and patrols, and to take such other measures as he deems to be appropriate, to protect from injury or destruction, national-defense material, national-defense premises, and national-defense utilities, as defined in the Act of April 20, 1918, 40 Stat. 533, as amended by the Act of November 30, 1940, 54 Stat. 1220, and the Act of August 21, 1941, 55 Stat. 655 (50 U.S.C. 104).

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