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DEPARTMENT OF STATE

DECLASSIFICATION GUIDE

FOR
EXEMPTION FROM AUTOMATIC DECLASSIFICATION
AT 25 YEARS UNDER SECTION 3.3(b) of E.O. 13526,
&
EXEMPTION FROM AUTOMATIC DECLASSIFICATION
AT 50 YEARS UNDER SECTION 3.3(h) of E.O. 13526

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CONFIDENTIAL**TABLE OF CONTENTS****UNCLASSIFIED****I. INTRODUCTION AND BACKGROUND**

A. PURPOSE AND SCOPE.....	3
B. CONTEXT OF E.O. 13526.....	4
C. DEPARTMENT'S OPENNESS POLICY	5
D. RELATION TO THE FOIA AND PRIVACY ACTS	5
E. PROCEDURAL REQUIREMENTS.....	6
1. Marking.	
2. Duration of Classification	
a. Picking a Date.	
b. Using a Declassification Event.	
F. ORGANIZATION AND USE OF THE GUIDE	7

II. EXEMPTION FROM AUTOMATIC DECLASSIFICATION
AT 25 YEARS

A. INTELLIGENCE MATTERS.....	7
1. Confidential Human Source.....	8
2. Human Intelligence Source or Intelligence Method or Relationship.....	9
3. Roger Channel	9
B. WEAPONS OF MASS DESTRUCTION.....	10
1. Chemical and Biological Weapons	10
2. Radiological Weapons	10
3. Nuclear Weapons	11
C. CRYPTOLOGIC INFORMATION.....	12
D. U.S. WEAPONS SYSTEMS.....	13
E. U.S. MILITARY WAR PLANS.....	13
F. DIPLOMATIC RELATIONS.....	14
1. Foreign Government Information	14
2. Sensitive Diplomatic Commentary, Reporting and Analysis	17
3. Sensitive Policy Discussions/Recommendations/Plans.....	18
4. Suggestion of U.S. Involvement in Foreign Domestic Affairs	19

CONFIDENTIAL

CONFIDENTIAL**UNCLASSIFIED**

5. Continuing International Disputes	20
6. Confidential Negotiations & Agreements.....	20
7. Confidential Relations with Foreign Domestic Entities	22

G. PROTECTION OF THE PRESIDENT AND OTHER OFFICIALS.....22**H. EMERGENCY PREPAREDNESS & VULNERABILITIES OF
INSTALLATIONS AND INFRASTRUCTURE..... 23****I. STATUTES, TREATIES, & INTERNATIONAL AGREEMENTS 24****III. FURTHER EXEMPTION FROM AUTOMATIC DECLASSIFICATION
AT 50 YEARS****A. CONFIDENTIAL HUMAN SOURCES..... 27****B. WEAPONS OF MASS DESTRUCTION 27****C. DIPLOMATIC RELATIONS..... 28**

1. Nuclear Policy Options & Contingency Planning	28
2. Strategic Information of Continuing Importance to an Ally.....	28
3. Sensitive Classified International Agreements	29
4. Information that Would Cause Serious Harm to U.S. Relations with a Foreign Government	29

D. STATUTES, TREATIES, & INTERNATIONAL AGREEMENTS 30**CONFIDENTIAL**

CONFIDENTIAL**UNCLASSIFIED****GUIDE FOR THE EXEMPTION FROM
AUTOMATIC & SYSTEMATIC DECLASSIFICATION OF RECORDS
UNDER PART 3 OF EXECUTIVE ORDER 13526 of December 29, 2009****I. INTRODUCTION AND BACKGROUND (U)****A. PURPOSE AND SCOPE (U)**

(U) This Guide is for the use of trained State Department reviewers of classified material in determining whether information of permanent historical value should be exempted from automatic declassification for an extended period. The criteria for making such exemptions are in Part 3 of Executive Order 13526 of December 29, 2009, and are further elaborated in the Final Rule issued by the Information Security Oversight Office (ISOO) on June 28, 2010. This Guide is intended particularly for use in automatic and systematic declassification reviews required by the Executive Order. However, it constitutes exemption authority for all reviews in which records are considered for continued classification beyond 25 years from their date of origin.

(U) This Guide also constitutes the classification authority and authority for exempting from automatic declassification information that was not originally classified or for which the classification has lapsed, except that it is not authority to reclassify information that has been declassified and released to the public under proper authority, for which E.O. 13526, Section 1.7(c) specifies special procedures.

(U) This Guide is not for the use of other agencies conducting a declassification review of State Department equities except for those agencies with which the Department has entered formally into an agreement to exchange declassification authority, but it may be used to identify equities of interest to State. In the absence of a specific interagency agreement, other agencies should send to the State Department for review any State equities "that could reasonably be expected to fall under one or more of the exemptions in section 3.3(b) of the Order" (ISOO implementing instructions 2001.34(b)) in accordance with guidance supplied to that agency by the Department of State.

(U) This Guide identifies those categories of information that may require classification protection for more than 25 years. A separate section also identifies those categories of information that may require classification protection for more than 50 years under E.O. 13526 Section 3.3(h). The described categories are necessarily broad to permit the flexibility required by the dynamic nature of foreign affairs. Nothing herein is intended to preclude further elaboration of guidance as it applies to specific requirements and responsibilities of individual bureaus in the Department. Bureaus are encouraged to supplement this Guide with guidance tailored to their specific requirements or covering aspects of E.O. 13526 or the ISOO implementing Directives not covered in this Guide.

(U) The Guide is intended to be used by experienced reviewers who are currently informed of the national security concerns of officials in the relevant geographic and

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functional bureaus engaged in the conduct of foreign affairs, particularly as contained in the *Substantive Guidance Manual* (Red Book) and the *Substantive Systematic Declassification Guidelines* (White Book). The Guide is of course to be used in conjunction with the *Department of State Classification Guide* and specific procedural guidance related to the nature of the review. The *Foreign Relations of the United States* (FRUS) series of volumes can also supply useful information on previous releases.

(U) Additional procedures for Automatic and Systematic Review are contained in the STARS (Systematic Tabulation and Record System) Manual. In those cases in which a document is being reviewed for release in response to a FOIA, Mandatory Review, or Privacy Act request, the special procedures required by Section 1.7(d) of E.O. 13526 must be followed. Those procedures are outlined in the IPS/CR Procedures Manual (Gray Book).

(U) This guide does not address file series exemptions covered in E.O. 13526 Section 3.3(c). These file series exemptions currently include only records of the Bureau of Intelligence and Research.

(U) In accordance with section 3.7(c)(1) of E.O. 13526, this guide, or detailed declassification guidance, will be provided to the Director of the National Declassification Center at the National Archives and Records Administration.

(U) This guide does not allow the Department of State to incorporate exemptions into its classification guidance under section 2.2(e) of E.O. 13526.

B. CONTEXT OF E.O. 13526 (U)

(U) E.O. 13526 builds upon and supersedes E.O. 12958, which was first issued by President Clinton in April 1995 and subsequently amended both by President Clinton and President George W. Bush. Although there were earlier national security information executive orders going back to 1951, the 1995 order was unique in its requirement for the automatic declassification of 25-year old national security information records of permanent historical value unless they have been reviewed under proper authority and determined to qualify for exemption from automatic declassification for an additional period on the basis of limited and specific criteria defined in the Order. Originally, the date for automatic declassification of existing records older than 25 years was in the year 2000, but due to the huge backlog of previously unreviewed records and the difficulty national security agencies had in addressing this backlog, the date was postponed several times but became final as of December 31, 2006. Subsequently, classified records become automatically declassified on December 31 of the year that is 25 years from the date of origin unless their classification is extended according to the criteria of the Executive Order.

(U) E.O. 12958 also introduced a distinction between the standards for original classification of information and those for exempting information from automatic declassification at 25 years, with the latter being considerably more stringent. E.O. 13526

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further tightened the criteria for exemption from declassification at 25 years and established even far more restrictive criteria for withholding declassification of a document for more than 50 years from its origin.

This guide implements the criteria for exemptions and review as now effective in the new Executive Order 13526 signed by President Obama on December 29, 2009.

C. THE DEPARTMENT'S OPENNESS POLICY (U)

(U) Department of State policy is to make historically important information on the conduct of U.S. foreign policy available to the public through Automatic and Systematic review in as complete a fashion as consistent with the national security. In recent years this has meant that, in practice, the Department has exempted less than two per cent of classified pages from release after 25 years. Almost another 14 per cent were withheld because they contained significant classified information from other U.S. Government agencies and required those agencies' declassification review prior to release, or had to be protected under other statutes such as the Atomic Energy Act or the Privacy Act. However, overall this meant that 84 percent were directly declassified. This Guide is intended to encourage continuation of that historical record of openness.

D. RELATION TO THE FREEDOM OF INFORMATION AND PRIVACY ACTS (U)

(U) Material that no longer merits protection under the terms of E.O. 13526 may, nonetheless, not be releasable to the public under the terms of other provisions of law. Section 6.2(d) of E.O. 13526 is specific in this regard: "Nothing in this order limits the protection afforded any information by other provisions of law, including the Constitution, Freedom of Information Act exemptions, the Privacy Act of 1974, and the National Security Act of 1947, as amended."

(U) The Atomic Energy Act of 1954, as amended, preempts E.O. 13526 with respect to nuclear and atomic information. See Section II.B.3 below.

(U) While time may have eroded the utility of FOIA exemptions in many cases involving, in particular, the (b)(2) and the (b)(5) deliberative process exemption, there are types of information that should be withheld under FOIA exemptions, even though 25 years old. These might include: confidential financial or commercial information [(b)(4)], personal information the release of which could result in unwarranted invasion of personal privacy [(b)(6)]; and certain law enforcement information [the (b)(7)s]. There are, moreover, legal sanctions for the unauthorized release of some information, particularly protected personal information and trade secrets. Other information may be exempted from public release by separate statutes. These FOIA (b)(3) statutes include, for instance, export control records, arms export control records, and visa matters.

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CONFIDENTIAL**E. PROCEDURAL REQUIREMENTS (U)****1. Marking (U)****UNCLASSIFIED**

(U) If it is determined that a document qualifies under the exemption criteria of E.O. 13526 and must remain classified for longer than 25 years, it must be tabbed (collared) with the Standard Declassification Review Tab (SF-715), as specified by ISOO, and described in detail in the STARS Manual. Except for certifying the removal of a Roger Channel designation (see below), no markings shall be made on the document. The SF-715 shall be marked with all appropriate information, including referral to other agencies and change in classification, if required.

(U) All relevant categories (1) through (9) of Section 3.3(b) shall be indicated on the SF-715 as 25X1, 25X6, or 25X1,6, etc. to certify withholding beyond 25 years from the date of the document. For those rare instances in which a document is to be held beyond 50 years (see Part III below) the designation would be 50X6, etc.

(U) Documents being reviewed in electronic form will have the same information as specified on the SF-715, entered as provided in the computer program.

(U) Only 25X exemptions may be applied to records reviewed in anticipation of automatic declassification at 25 years (i.e., in reviews conducted in 2013, for records dated between 1969 and 1993). Other than the 50X1-HUM and 50X2-WMD exemptions, 50X exemptions may only be applied to records approaching automatic declassification at 50 years (i.e., in reviews conducted in 2013, for records dated between 1944 and 1968). Records exempted under 25X shall be automatically declassified on December 31 of a year that is no more than 50 years from the date of origin of the record, unless a 50X exemption is later applied within five years of that automatic declassification date. Records exempted under 50X shall be automatically declassified on December 31 of a year that is no more than 75 years from the date of origin of the record.

2. Duration of Classification (U)

a. (U) Picking a Date: Information that still requires protection beyond 25 years should be classified for only as long as considered necessary to protect the national security. The maximum period for which documents can be exempted under Section 3.3(b) is 50 years from the document date. (Note that the option in the previous E.O. for holding a document for up to "25 years from the date of review" has been removed in E.O. 13526.) A shorter period will almost always be adequate. A foreign government document being withheld purely because of our agreements to protect their classification can usually be released after 30 years. If the substance of a document requires further protection, often another 10 or 15 years will be sufficient.

b. (U) Using a Declassification Event: It is sometimes useful to designate an event for automatic declassification, but such an event should be reasonably definite and

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foreseeable and expected to occur within 25 years. An indefinite or hypothetical event should not be used, and therefore usually a date for declassification is a better choice. Possible events could be the death of a prominent individual, the termination of a treaty, or the settlement of a particular specific dispute or negotiation. Examples of incorrect usage would include "when the issue is no longer sensitive," or "when countries X and Y improve relations."

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CONFIDENTIAL**F. ORGANIZATION AND USE OF THE GUIDE (U)****UNCLASSIFIED**

(U) Part II of the Guide lists the categories of information that may be exempted from automatic declassification at 25 years and up to 50 years as enumerated in Sections 3.3(b)(1) through 3.3(b)(9) of E.O. 13526 and discusses each category from the standpoint of State Department reviewers.

(U) Part III examines limited options for exempting documents from automatic declassification for periods beyond 50 years and up to 75 years as provided in E.O. 13526 Section 3.3(h).

(U) Most State Department documents will have been originally classified because they concern foreign relations, contain information received from a foreign government, reveal the identity of a confidential source, or classify information protected by international agreement. Some of the other most frequently encountered categories of classified information in State Department files will have been originally classified by another federal agency such as the Defense Department or an intelligence agency. Unless declassification authority has been delegated to the Department of State, such documents cannot be released until reviewed by the originating agency and/or other equity holders of the information. This Guide is not intended as a comprehensive equity recognition tool for other-agency information, as that information is available elsewhere.

(U) The categories below are discussed in broad terms with illustrative examples. There is no effort to cover the full range of likely classification requirements, since an effort to provide for every possible contingency would produce an unmanageably cumbersome product which, moreover, would have an unacceptably short shelf life. Situations can change. Obscure political figures can re-emerge; prominent leaders can die; governments can fall. Nor are the examples given intended to be limiting.

I. EXEMPTION FROM DECLASSIFICATION AT 25 YEARS

E.O. 13526, Section 3.3(b) "An agency head may exempt from automatic declassification . . . specific information, the release of which should clearly and demonstrably be expected to:"

A. INTELLIGENCE MATTERS (U)**Sec. 3.3(b)(1)**

"Reveal the identity of a confidential human source, human intelligence source, a relationship with an intelligence or security service of a foreign government or international organization, or a nonhuman intelligence source; or impair the effectiveness of an intelligence method currently in use, available for us, or under development."

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CONFIDENTIAL**1. Confidential Human Source or Human Intelligence Source (U)****UNCLASSIFIED**

(U) A confidential human source is any individual who has provided, or who may reasonably be expected to provide, information to the United States on matters pertinent to the national security with the expectation that the information or the relationship, or both, are to be held in confidence. The understanding need not be explicit.

(U) In State-origin material, confidential source information is most frequently found in reports of discussions with foreign political, economic, labor, religious, etc., leaders or activists who are speaking frankly about matters of interest to the United States. In this case, the substance may not be relevant to the decision to exempt, since it is the source that is being protected. When an official is simply passing on the views of his government or organization, and when the information itself is not still sensitive, continued classification protection is often not necessary. However, when that person goes beyond his assigned brief to explain candidly why he or she personally thinks the policy of the government was adopted, or provides frank views on its effectiveness, continued protection may be appropriate.

(U) It is not necessary that the person be named if the description would allow reasonable identification of the individual from the title or information provided. Often the sensitivity of protecting a source ends with the source's death, but this is not always the case. Close ruling dynasties or other relationships may well need protection beyond the particular individual, and there are circumstances where revealing information can lead to retribution to the source's group or family, or seriously compromise the willingness of current officials or individuals to share information in confidence with the United States Government.

(U) Information that reveals human intelligence sources should normally be referred to the intelligence agency concerned for protection. However, if the substance of the intelligence report, in contrast to how the information was obtained, is sensitive for diplomatic reasons, State may also exempt as 25X6.

(U) E.O. 13526 provides additional flexibility when protecting a human source or human intelligence source, and in these instances it is not required to provide a date or event for declassification. The exemption should then be labeled 25X1-Human (or simply 25X-1H), and the information would be protected for the full 50 years from the date of the document. (See also 50X-1H below).

Interpretation:

- Not specifying a release date when protecting a confidential human source or human intelligence source is permitted, not required.
- State reviewers protecting confidential human sources will usually be able to specify a reasonable date for release of such information that is less than the maximum. Even when a document states "protect source," this is not an automatic 25X-1H, and it may be that protection was needed only for a limited duration.

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- When using category (1) to protect intelligence methods, personnel, equipment or relationships, a date or event for declassification must be included in all instances, normally by the intelligence agency concerned to which it is referred.
- Foreign government information normally is exempted under (6) or (9) – see below. It must also be exempted under (1) if it identifies a confidential or intelligence source or exposes an intelligence method or relationship.

2. Human Intelligence Source or Intelligence Method or Relationship (U)

1.4(C)

3. Roger Channel (U)

(U) Roger Channel messages are State Department documents controlled by the Assistant Secretary, Bureau of Intelligence and Research (INR). They are used primarily as a privacy channel to and from Chiefs of Mission to discuss sensitive intelligence and law enforcement matters with INR or the Secretary of State, but are also used to convey information and administrative instructions on intelligence matters. Roger Channel is not an SCI designator, and Roger Channel messages should not contain SCI material.

(U) Roger Channel documents in most cases must be referred to INR/OPS for review prior to decapTIONING and referral or release, but INR has accorded IPS limited authority to remove the Roger Channel designation, without referral to INR/OPS, from: 1) documents of an administrative nature that contain the equities of other agencies, so that they may be referred to those agencies; and 2) documents the substance of which do not meet the criteria for Roger Channel designation.

(U) Roger Channel documents that do not have the Roger Channel designation removed under proper authority shall be exempted under 25X1 and continue to be classified at the SECRET level for 50 years from the date of the document. If the document reveals the identity of a human intelligence source, it would also be exempted under 25X1-Human or as discussed in Part III.A of this guide.

CONFIDENTIAL

CONFIDENTIAL**B. WEAPONS OF MASS DESTRUCTION (U)****Sec 3.3(b)(2)****UNCLASSIFIED**

“Reveal information that would assist in the development, production, or use of weapons of mass destruction.”

(U) It is relatively rare for State reviewers to apply this 25X2 exemption to State equities. However, because information in this category frequently appears in State records, this exemption is discussed in some detail as an aid to equity recognition.

(U) Weapons of mass destruction include chemical, biological, radiological, and nuclear weapons. Information is classified under this category to protect against proliferation of these weapons and to help prevent terrorist groups or other potential adversaries from either acquiring these weapons or the technical information that could be used to develop them. Information that would assist a potential developer of weapons of mass destruction in evading detection and/or monitoring by the United States and its allies and international verification bodies such as the International Atomic Energy Agency or the Organization for Prohibition of Chemical Weapons should be protected as information that would assist in the development of such weapons.

1. Chemical and Biological Weapons (CBW) (U)

(U) Any information that would assist in the acquisition, development, design, and manufacture of CBW systems and delivery systems or the development of homemade CBW systems that could be used by terrorists is likely to be encountered in State Department records only in the form of documents or information originated by another agency. The documents should be referred to that agency in accordance with the procedures appropriate to the type of review. If such information is encountered in a State Department document, and the appropriate owner of the equity is unclear, the document should be exempted from automatic declassification for 50 years from the document date. (In automatic and systematic review it should additionally be tagged for referral to the appropriate component of the Defense Department (usually Army) prior to declassification.) **Note:** Reporting on the activities of groups believed to be engaged in the acquisition, development, design, and manufacture of CBW systems and delivery systems would not be exempted under this category unless it included technical details of design, manufacture, etc.

2. Radiological Weapons (U)

(U) Classified information that would assist in the acquisition, development, design, or manufacture of a radiological weapon or its delivery systems or the development of homemade radiological weapons that could be used by terrorists is also likely to be encountered in State Department records only in the form of documents or information originated by another agency. Documents containing such information should be referred to the appropriate agency (usually DOE) in accordance with the procedures appropriate to the type of review.

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CONFIDENTIAL**3. Nuclear Weapons (U)****UNCLASSIFIED**

(U) U.S. nuclear weapons information falls under the authority of the Department of Energy (DOE) according to the terms of the Atomic Energy Act of 1954. DOE-classified information falls into three categories:

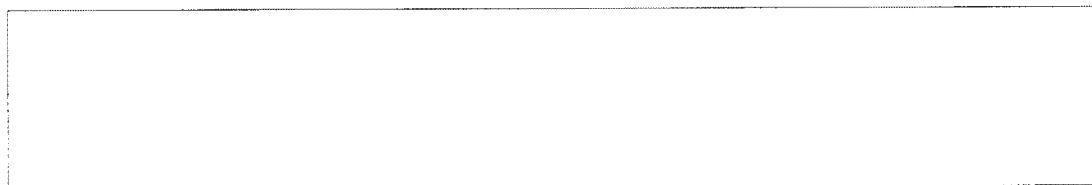
- a) National Security Information (NSI), which is classified under the authority of the present and previous executive orders, such as E.O. 13526;
- b) Restricted Data (RD); and
- c) Formerly Restricted Data (FRD).

(U) The latter two designations are authorized by the Atomic Energy Act, and are administered by DOE. RD concerns the design, manufacture, or utilization of atomic weapons, the production of special nuclear material (SNM), such as plutonium, deuterium, and uranium 235, and the use of special nuclear material in the production of energy. RD is controlled by DOE alone. FRD applies to information that has been removed from the RD category after DOE and DOD have determined it relates primarily to the military use of atomic weapons. Examples of FRD include information about nuclear weapons stockpile quantities, safety, storage, and deployment -- foreign and domestic, past and present. DOE shares control of FRD with DOD.

(U) If a reviewer detects information which plausibly comes under the Atomic Energy Act, the review must be turned over to a "trained Historical Records RD Reviewer." These are reviewers who both have "Q" Clearance, and have attended and passed the DOE historical records RD reviewer 4-day course. Most State automatic and systematic declassification reviewers are so certified.

(U) National Security Information (NSI) on these subjects should be exempted from declassification for 50 years from date of origin and referred to DOE if release:

- could reasonably be expected to assist other nations or terrorists in acquiring, designing, building, testing, or deploying a nuclear weapon, including component parts or nuclear material;
- is identifiably intelligence on foreign nuclear weapons; or
- would assist a foreign nation or terrorists to circumvent U.S. and allied systems or international safeguards and verification measures for the detection of CBW and nuclear weapons.



1.4(H)

(U) Restricted Data (RD). A document, or information in a document, that is marked as Restricted Data, or "RD" is excluded from the application of E.O. 13526 and is controlled by DOE. If DOE at some point removes the RD designation of the

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document, DOE has the responsibility to refer the document to the appropriate agencies for declassification review of any NSI information in the document.

(U) Formerly Restricted Data (FRD). A document, or information in a document, that is marked as "FRD" is similarly excluded from E.O. 13526. DOE and DOD jointly administer control of FRD material. They have the responsibility to refer to other agencies any NSI information in the event that they remove the FRD designation from the document.

(U) Unmarked documents which a reviewer determines probably contain RD or FRD information should be so identified and referred to DOE as "probable RD," or "probable FRD," but they may also be exempted and/or referred to other agencies as well as to DOE on the basis of NSI information in the documents. Originating offices, particularly in State and ACDA, have frequently failed to mark RD and FRD information properly and have used only NSI classifications to protect the information. Documents at the time of review that are not marked FRD, but which contain information about classified nuclear weapons storage locations abroad, clearly also contain State equity that must be protected. They should be exempted for 50 years from document date under E.O. 13526, sections 3.3(b)(6) and (9) and also referred to DOE for determination, as "probable FRD."

(U) When a document containing FRD is reviewed under FOIA, FRUS, or Mandatory Review, and the document is to be released in part, special marking provisions may apply. See the "Red Book" for instructions in this regard. Some records containing FRD information have been previously released to the public, but this does not preclude their continued classification and withholding under the Atomic Energy Act as determined by DOE or DOD. Nothing in E.O. 13526 supersedes any requirement of the Atomic Energy Act.

C. CRYPTOLOGIC INFORMATION (U)

Sec 3.3(b)(3)

"Reveal information that would impair U.S. cryptologic systems or activities;"

(U) Cryptologic materials are generally held by the Department on a temporary basis. Cryptologic materials come under the control of the National Security Agency (NSA), and the original classification will have been assigned by that agency. Documents in this category might include information on: U.S. cryptologic capabilities and vulnerabilities; foreign cryptologic capabilities and vulnerabilities; cryptoperiod dates; and inventory reports of COMSEC material. In automatic and systematic review, cryptologic materials should be referred to NSA for review and declassification determination. Cryptographic information will usually be found in files of Special Compartmented Information (SCI). If found in non-SCI files, it should be treated as a "misfiled" document and removed from the box of historical records and stored in a SCIF until it can be properly transferred to the National Archives SCI depository. If SCIF

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storage is not immediately available, the document should be treated in the interim as SECRET.

D. U.S. WEAPONS SYSTEM TECHNOLOGY (U)

Sec. 3.3(b)(4) "Reveal information that would impair the application of state of the art technology within a U.S. weapons system;"

(U) Documents in this category will not be common in State Department files, but are most likely to be found in the retired files of the former Arms Control and Disarmament Agency (ACDA), the successor bureaus to the ACDA, the Bureau of Political-Military Affairs, and the Bureau of Intelligence and Research. Information in this category might include: scientific or engineering analyses or descriptions of U.S. weapons systems; technical vulnerabilities of U.S. defense systems; technical details of U.S. national and military command, control, and communications systems, and any other information likely to weaken U.S. weapons systems. In automatic and systematic review, unless there is agreed interagency guidance on its handling, information that appears to fall in this category should be referred for declassification review by the appropriate Department of Defense entity (usually Army, Navy, or Air Force) or, if no specific entity can be identified, to OSD.

E. U.S. MILITARY WAR PLANS (U)

Sec 3.3(b)(5)

"Reveal formally named or numbered U.S. military war plans that remain in effect, or reveal operational or tactical elements of prior plans that are contained in such active plans;"

(U) Information in this category might include: military plans for operations or contingencies; weaknesses in the current U.S. defense posture; nuclear weapon release authority and agreements; and any other information likely to reveal current U.S. military planning. Given the Department's extensive involvement historically in various national and international military organizations and operations, State Department files contain numerous classified documents concerning military plans, operations, or contingencies, some of which were created by DOD or the armed services, others in the form of Department of State commentaries or analyses of the foreign policy aspects of military plans or operations. An enormous amount of material has been released or published in the FRUS on U.S. military plans and preparedness in the Cold War era. However, prior release of FRD information does not in itself constitute authority for release of this category of information, which must be referred to DOD.

(U) State Department records containing or commenting on DOD war plans should be referred to JCS for declassification determination. The National Security Staff (formerly NSC) waiver to the Department of State also requires referral to the NSS of any records concerning "authorization to use weapons of mass destruction" or U.S. policy on "first use of nuclear weapons."

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(U) State Department documents that discuss basic national security policy contingencies, as opposed to specific military war plans, should be evaluated under E.O. 13526 category 3.3(b)(6) below, with referral also to the NSS and OSD if appropriate.

F. DIPLOMATIC RELATIONS (U)**Sec. 3.3(b)(6)**

“Reveal information, including foreign government information, that would cause serious harm to relations between the United States and a foreign government, or to ongoing diplomatic activities of the United States.”

(U) For State Department reviewers, this is the meat and potatoes of our work, our most utilized exemption, and the one that requires the most thought and judgment. It includes criticism of sitting monarchs and politicians, sensitive foreign government information, sensitive relations with third parties, diplomatic negotiations, unresolved international issues, and almost every aspect of diplomatic relations with foreign powers. The conduct of foreign affairs takes place in a highly fluid and often rapidly changing environment. The same issues can remain sensitive and/or unresolved for several decades. Some of the most likely circumstances in which classified material might cause serious harm to relations or diplomatic activity are noted below, but not every case will fit these categories. All judgments should adhere to the “serious harm” criteria of the executive order.

1. Foreign Government Information (U)

(U) Foreign Government Information (FGI) is defined in Section 6.1(s) of E.O. 13526 as:

- (1) information provided to the United States Government by a foreign government or governments, an international organization of governments, or any element thereof, with the expectation that the information, the source of the information, or both, are to be held in confidence;*
- (2) information produced by the United States pursuant to or as a result of a joint arrangement with a foreign government or governments, or an international organization of governments, or any element thereof, requiring that the information, the arrangement, or both, are to be held in confidence; or*
- (3) information received and treated as “foreign government information” under the terms of a predecessor order.*

General: (U) For FGI to qualify for exemption from automatic declassification after 25 years it must satisfy the “serious harm” requirement of Executive Order 13526 Section 3.3(b)(6). Generally, when exempting at 25 years, the information will itself be sensitive, despite the passage of time. This will not always be the case, however, and the executive order recognizes this. Among the factors to be considered in evaluating damage to the national security are “the sensitivity, value, utility, and

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provenance” of the information (Sec. 6.1(l)). Protection of the confidentiality of the exchange of information between governments is a basic requisite for the successful conduct of diplomacy. The expectation of confidentiality applies equally to exchanges between adversaries and friends. Actions that undermine this trust carry costs that must be weighed. Some governments are more protective of their information than are others – including even the fact that they have provided information to the U.S. Government at all. Additionally, foreign governments are the frequent sources of information vital to the formulation and execution of U.S. foreign policies. Continued access to vital information will generally depend upon our ability to protect such information and the foreign government as the source. The same may be true of certain documents of and exchanges with officials of international organizations.

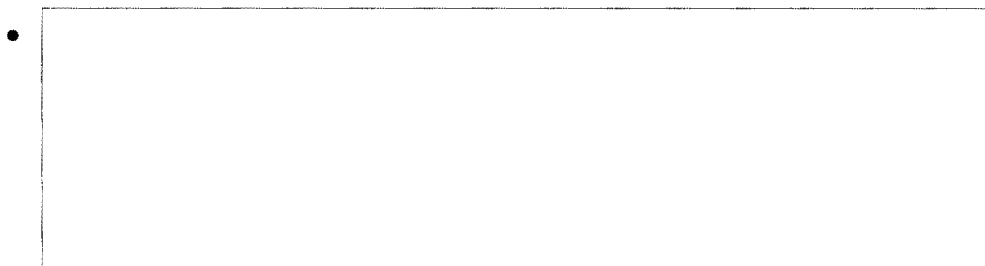
(U) **Types of FGI Likely to Require Exemption at 25 years.** Foreign government information will be found in a wide variety of records. All FGI should be evaluated for release or exemption in the light of the originating country’s own policy on the release of its information. Several countries of importance to the United States have rules not allowing release of classified information until after 30 years. Some involve specific agreements. Therefore, we should as a general rule not release classified or sensitive foreign government documents or significant foreign government information imbedded in U.S. documents until after 30 years without the concurrence of the government concerned. This protects the confidence necessary in confidential international discourse. For longer protection, the substance of the material should be determinative. The primary consideration is the impact on U.S. foreign policy interests.

- (U) **High Level Correspondence on Matters of Substance.** This includes letters, diplomatic notes or memoranda, or reports of telephone or face-to-face conversations involving foreign chiefs of state or government, cabinet-level officials, leaders of opposition parties, and others. This category of information should be evaluated first on the sensitivity of the contained information to both countries as described below and exempted if appropriate. If the information itself is judged not of significant current sensitivity, a declassification date of 30 years from date of origin may still be needed if one or more of the parties is still prominent or in power. The reviewer must bear in mind the extraordinary longevity in public life of some political figures and the sensitivity of some governments to release of information about current and former leaders. If it is determined that release could seriously complicate relations with the official or country concerned, a declassification date as long as 50 years from the document date should be applied.
- (U) **Foreign Government Documents on Matters of Substance.** In addition to actual foreign government documents, these include USG transcriptions of foreign documents, e.g., the telegraphic reporting by a U.S. embassy of the text of a foreign government document. Again the decision to exempt should consider the release policy of the foreign government and the continuing sensitivity of the underlying subject to both governments.

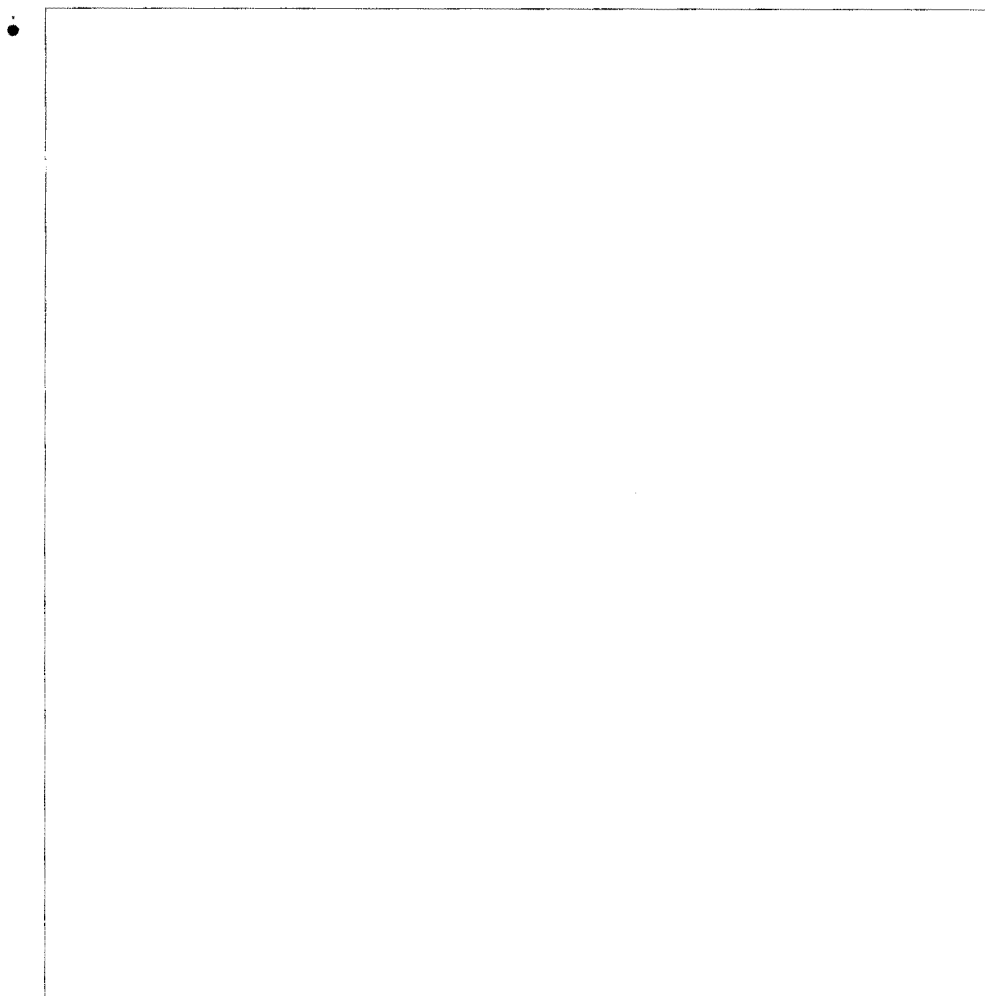
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Unless the sensitivity of the information dictates a longer period, ^{UNCLASSIFIED} 30 years from date of origin will normally be an adequate declassification date.



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(U) In these cases, there is a fair probability of serious damage to U.S. foreign policy interests. In some instances it might be possible to consult with the foreign government about release, but the nature of the FGI in these cases will generally make consultation with the originating government impractical or inappropriate, especially when it is not clear that the information was passed with full authorization of the government. A

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 declassification date 40 years from date of origin generally will provide adequate protection.

- (U) Foreign Government Information Covered By Agreement. The U.S. Government has entered into agreements and established programs of information exchange with a number of other countries. The agreements frequently provide for the protection of classified information that has been exchanged. Information covered by these agreements should be protected by the terms of these agreements, including duration of classification. There are also instances in which there are specific commitments not to release the records of certain negotiations (e.g., the Standing Consultative Commission – SCC of the U.S-Soviet nuclear arms control talks) without the specific agreement of both parties. Where no classification period or declassification date is specified, such information should not be declassified without the consent of the originating government. Additionally, the U.S. Government, as a member of a number of current and former organizations, is bound by agreements governing the handling and release of the documents of those organizations. Organizations for which specific declassification agreements exist include NATO and COCOM. Information covered by these and similar agreements should be exempted for the period specified under the terms of the agreements under both 25X6 and 25X9 or held for a longer period if the substance requires.

2. Sensitive Diplomatic Commentary, Reporting, and Analysis. (U)

(U) General Considerations. Reporting on and analysis of the internal affairs or foreign relations of a country is a central function of U.S. Foreign Service posts and is vital to the formulation and execution of U.S. foreign policy. This information provides important insight into the factors that have shaped U.S. policy towards a country or region and ought to be released at 25 years, to the extent security permits. However, regardless of how much time passes, certain information will remain sufficiently sensitive to damage U.S. relations with other governments or hinder the pursuit of important U.S. foreign policy interests. Accordingly, such information should continue to be safeguarded and therefore exempted from automatic declassification. This material may continue to be sensitive regardless of its medium of transmission or the nature of the document.

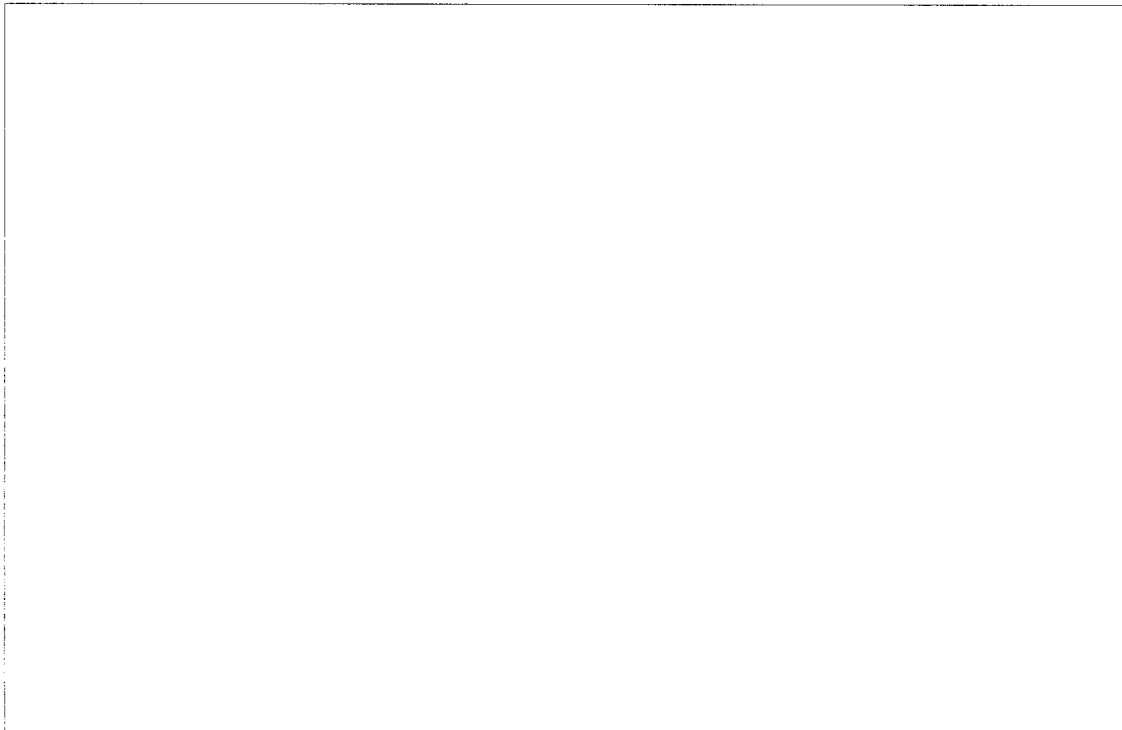
(U) Reporting and Analysis About the Policies of the Government, or a Political Party, or Social or Economic Group. Either favorable or unfavorable commentary in this category could originally have warranted classification, since, for example, favorable commentary about the policies of opposition parties or personalities could complicate relations with the current government. At 25 years, it is difficult to see how favorable commentary could be sufficiently damaging to warrant continued withholding unless it also suggested a controlling influence or overly deep involvement

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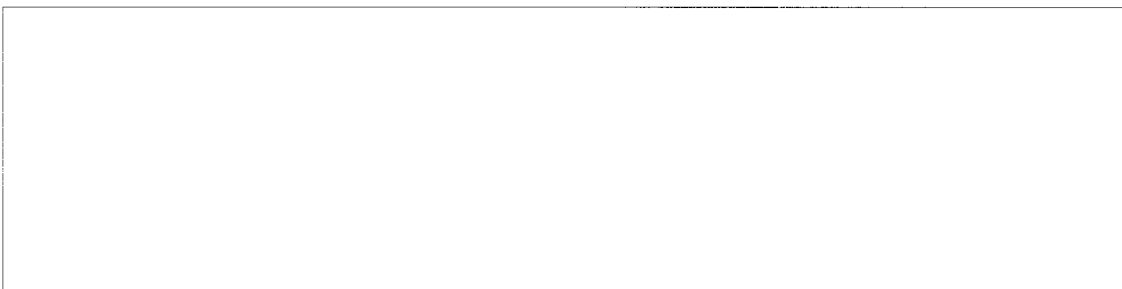
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by the United States. The basic question is whether release of the information would seriously harm current U.S. diplomatic activities or impair relations. UNCLASSIFIED

(U) When the commentary is negative, the information is inherently more sensitive and more likely to require exemption from automatic declassification. Especially sensitive examples of negative commentary might include reports of corruption of individual officials, foreign government agencies or other institutions, if release of the information would impair current working relations. The possibility that still-living foreign political, economic, religious, and social leaders might again become significant players on the local scene should be taken into account.

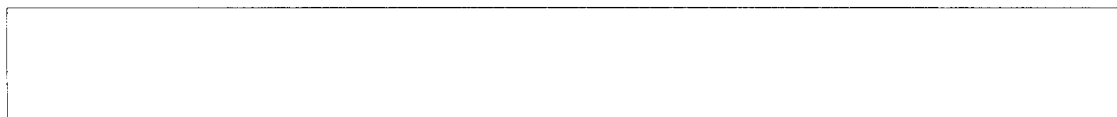


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3. Sensitive Policy Discussions/Recommendations/Plans. (U)



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(U) **Contingency Plans**. The policy process frequently culminates in specific plans for dealing with various actual or potential situations. The same sensitivity described above in relation to the policy debate would probably be embedded in the resulting plan, whether or not it has been implemented, and similar consideration should be given to maintaining the classification. The duration of classification would similarly be dependent upon whether the plan is still in effect.

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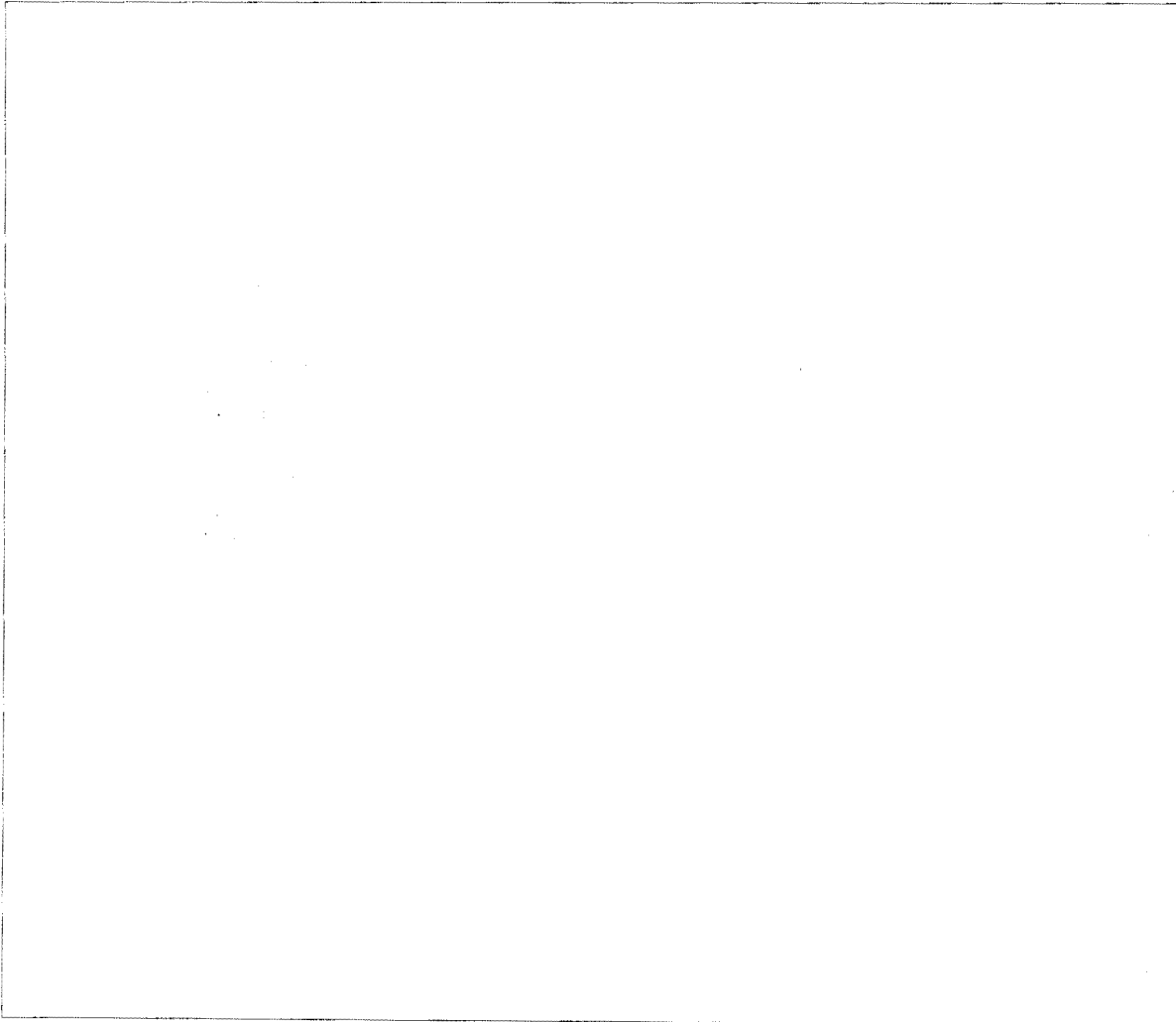
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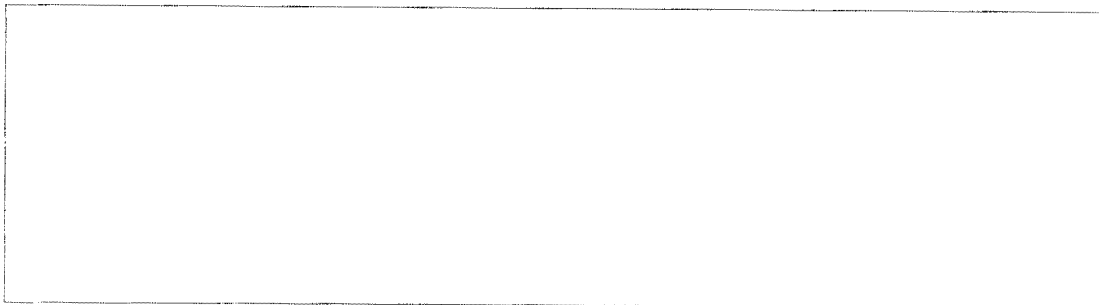
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5. Continuing International Disputes (U)



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6. Confidential Negotiations & Agreements (U)



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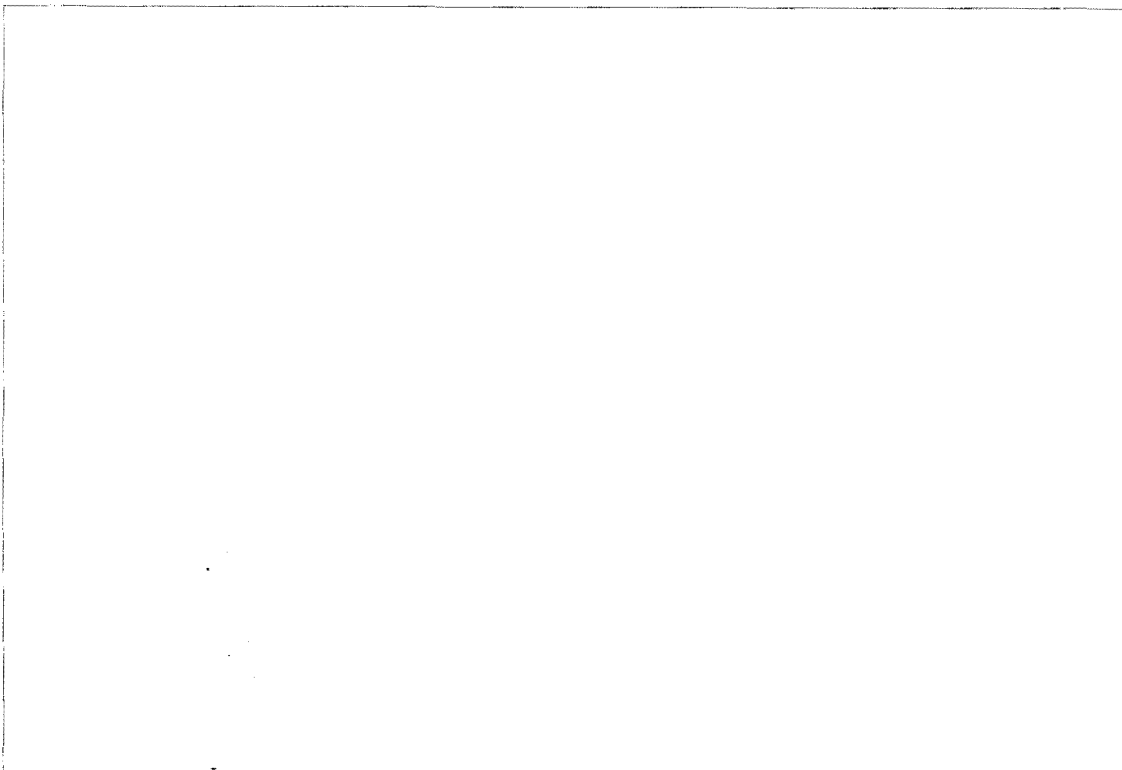
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7. Confidential Relations with Foreign Domestic Entities. (U)

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G. PROTECTION OF THE PRESIDENT AND OTHER OFFICIALS (U)

Sec. 3.3(b)(7)

“Reveal information that would impair the current ability of United States Government officials to protect the President, Vice President, and other protectees for whom protection services, in the interest of national security, are authorized.”

(U) This category should be used to continue classification protection of information that might be useful to individuals or organizations with the intent to harm U.S. or other persons authorized for protection. Obviously, this would apply to information regarding the protection given to selected individuals by the U.S. Secret Service, the Department’s Bureau of Diplomatic Security (DS), the FBI, the Federal Marshals Service, the security agencies of DOD, and the armed services, and the officials of any other department bureau or agency of the U.S. government responsible for providing protective services. The protected individuals need not be U.S. citizens. For instance, DS and the Secret Service often provide protective service to selected foreign visitors to the United States. Additionally, this category would apply to information relating to measures taken by DS and other agencies to protect employees and visitors at the State Department and other USG facilities overseas and in the U.S. The kinds of information likely to be encountered include, but are not limited to:

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- Details about equipment or techniques used to protect persons from attack. This might include instruction manuals or standing orders for protective details or security guards, defensive driving techniques, special secure rooms, or weapons and body armor; and
- Emergency contact and evacuation plans for personnel at embassies and other installations abroad that reveal information that could be exploited by terrorists to harm American citizens.

(U) When information described above has been originated by or involves another agency, the material should be referred to that agency for decision. For example, information about Secret Service protection should be referred to Homeland Security for the Secret Service {DHS(USSS)}. Classified information in this category that applies only to a particular time or event, such as the schedule for a visit by the Secretary, or that relates to equipment, techniques, or practices that are no longer used or that are well known to the public, should not be exempted from declassification. When release of classified State Department information in this category would compromise practices, techniques, or equipment that are still in use, it should normally be withheld from automatic declassification and given a declassification date that is at least 15 years from date of review.

(U) Information in this category will often be associated with measures to protect systems or installations and facilities, which are covered by Section 3.3(b)(8) of the Executive Order. When this is the case, both categories should be used in exempting from automatic declassification.

H. EMERGENCY PREPAREDNESS & VULNERABILITIES OF INSTALLATIONS AND INFRASTRUCTURE

Sec. 3.3(b)(8)

“Reveal information that would seriously impair current national security emergency preparedness plans or reveal current vulnerabilities of systems, installations, or infrastructures relating to national security.”

(U) In the current era of international terrorism, there is heightened awareness of the need to avoid dissemination of information relating to installations and infrastructures if it could be useful to individuals or organizations that might seek to harm U.S. facilities or persons. Much of that information, however, has not previously carried a security classification, but has been marked LOU or SBU (Sensitive But Unclassified). Current practice is to designate and mark such material as CUI (Controlled Unclassified Information). When this material is reviewed in systematic or other review, if such information retains the potential to reveal continuing vulnerabilities, it should be classified **CONFIDENTIAL** and withheld for at least 15 more years under 25X8. Architectural plans of official installations still in use are an important example of

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heretofore unclassified documents that may need to be classified and withheld. Due to court judgments, it is no longer possible to protect such information under FOIA(b)(2).

(U) Use this exemption to protect those overseas emergency and evacuation plans and security surveys which reveal significant continuing Embassy vulnerabilities that could be utilized by terrorists. These should also be exempted under 25X6 if their provisions would be offensive to a host nation.

(U) Since the original Clinton executive order, this section has been sufficiently strengthened so that it is not so necessary to rely on Section 3.3(b)(7), Protection of Persons, to protect such things as E&E plans or architectural drawings, but both 25X8 and 25X7 may be cited if pertinent.

(U) Include in this exemption category sensitive continuity of government (COG) plans, and the domestic emergency preparedness plans under the jurisdiction of the Department of Homeland Security or the Department of Defense. If in doubt about the current sensitivity of this type of information, refer it to DHS, OSD, and/or the NSS if it involves COG.

I. STATUTES, TREATIES, & INTERNATIONAL AGREEMENTS (U)

Sec. 3.3(b)(9)

“Violate a statute, treaty, or international agreement that does not permit the automatic or unilateral declassification of information at 25 years.”

(U) The material described here will generally also be withheld under 3.3(b)(6) described above. Section 3.3(b)(9) is to be used to exempt **classified** information from automatic declassification. It may also be used as authority to classify currently unclassified information -- in which case it may then be withheld. Section 3.3(b)(9) is **not** comparable to FOIA exemption (b)(3), which may be used to withhold information from public disclosure, whether or not it is classified. When information has been classified under authority of this section, it will then also be considered exempt under FOIA(b)(1) and (b)(3).

(U) The United States has entered into agreements with a number of other countries that provide for the protection of classified information. When they are general government-to-government agreements, they are generally called General Security of Information Agreements -- GSOIA's. Recent examples are rare. More common are General Security of Military Information Agreements -- GSOMIA's which, as the name implies, are military-to-military agreements and will not need to be invoked by State Department reviewers. Such agreements specify the conditions under which information originated by the parties may be released to other parties or the public. Where such agreements exist, the USG is bound by them. When exempting information under this category, the reviewer must cite the specific agreement.

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(U) The United States, as a member of a number of current and former organizations, is bound by agreements governing the handling and release of the documents of those organizations. A non-comprehensive list of frequently encountered examples:

(U) Live Oak. By agreement of the parties, classified documents of this quadripartite consultative group on Berlin were not to be released until October 2005. It is now no longer necessary by agreement to exempt Live Oak documents from automatic declassification, and they should be judged simply on their substance.

(U) Coordinating Committee on Multilateral Export Controls - COCOM. Before it was dissolved after the collapse of the Soviet Union, the 17 member countries of COCOM agreed that the records of the organization would be turned over to the French Foreign Ministry as the authorized archival depository. They further agreed that COCOM documents would be released to the public after 30 years from the date of origin if no member of the former organization interposes objection to release. COCOM documents that are reviewed from U.S. records should be exempted from release for **32 years** from date of origin to allow time for the objection mechanism to be applied. This constraint does not necessarily cover U.S. documents relating to COCOM, such as instructions to the U.S. representative.

(U) NATO. NATO has agreed an program of systematic review for declassification of official NATO documents. This program lags chronologically behind the U.S. review and release of similar U.S. material, but we are bound to respect the NATO schedule for the release of official documents. All NATO documents, including those reproduced in U.S. records, should be held for a minimum of 30 years from the date of the document, and if not otherwise sensitive, should also be referred to NARA, which maintains the U.S. NATO Registry and is in dialogue with the NATO Secretariat on document release dates. U.S. origin documents that report in detail the substance of the meetings of significant NATO bodies or other classified NATO-origin information must also be held in accordance with NATO guidelines and should be exempted under 25X9 for at least 45 years from document date. In paper review these are also referred to NARA for registry consideration.

(U) Any documents that contain sensitive U.S. equity that needs to continue to be protected should also be exempted under 25X6 for an appropriate period of years. U.S. NATO position papers and commentary that do not report on official NATO meetings in detail or contain classified NATO information should be evaluated simply under U.S. guidelines. At the time of this writing, negotiations are underway that may result in NATO giving authority to member governments to make a determination on declassification disposition of all non-Registry NATO material in national records after it is held for a minimum of 30 years. When and

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if such authority is granted, it will supersede the conflicting requirements of this section.

(U) Arms control agreements may contain specific prohibitions on release of information concerning their deliberations. For example:

SALT I and ABM Treaty. The SALT I and ABM Treaty Standing Consultative Commission regulations both state that their deliberations shall be conducted in private and that the proceedings may not be made public except with the express consent of both Commissioners.

START. Annex I to the Protocol on the Joint Compliance and Inspection Commission for START spells out in detail the guidelines governing any release of information contained in the notifications under the provisions of the treaty.

(U) If an international agreement specifies a date for release, that date should be used as the automatic declassification date when exempting information under this section. If the agreement is open ended, and the relationship is still extant, the information should be exempted from automatic declassification for 50 years from date of its origin. After 50 years, the agreement must be reviewed against the exemption authority in the following section or declassified. As with all documents exempted under E.O. 13526, the documents exempted for reasons of an international agreement may be re-reviewed (systematic review) at any time prior to their date for automatic declassification.

III. FURTHER EXEMPTION FROM AUTOMATIC DECLASSIFICATION AT 50 YEARS

E.O. 13526, Section 3.3(h): "... all records exempted from automatic declassification under paragraphs (b) and (c) of this section shall be automatically declassified on December 31 of a year that is no more than 50 years from the date of origin, subject to the following:

(1) Records that contain information the release of which should clearly and demonstrably be expected to reveal the following are exempt from automatic declassification at 50 years:

(A) the identity of a confidential human source or a human intelligence source; or

(B) key design concepts of weapons of mass destruction.

(2) In extraordinary cases, agency heads may, within 5 years of the onset of automatic declassification, propose to exempt additional specific information from declassification at 50 years."

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The present Guide, when approved by ISCAP, includes certain additional authority for exemption beyond 50 years and up to 75 years from the document date as authorized by E.O. 13526, Section 3.3(h)(2) above.

A. CONFIDENTIAL HUMAN SOURCES (U)

(U) Section 3.3(h) provides that, as necessary, a document may be exempted from declassification beyond 50 years and up to 75 years to protect a confidential human source or human intelligence source.

(U) This authority should be used sparingly by State reviewers, since in most cases 50 years will have been sufficient to protect most of our sources as described in part II.A.1. of this Guide. However, in cases where the individual in question was sufficiently young at the time of the incident requiring protection and may still be professionally active, or in cases in which the nature of the authoritarian regime is such as to bring possible repercussions upon an individual, family, or organization, protection beyond 50 years should be considered. Reviewers should then pick a date for declassification that is more than 50 years but not more than 75 years from the document date and record the exemption as **50X1-Human**, or simply **50X1H**.

(U) Information that reveals human intelligence sources should be referred to the intelligence community element concerned for protection.

B. WEAPONS OF MASS DESTRUCTION (U)

(U) Section 3.3(h) authority is limited to extending the exemption from declassification to "key design concepts of nuclear weapons." Since the Atomic Energy Act supersedes the Executive Order with regard to all nuclear information, State reviewers should continue to refer all marked RD and FRD documents to DOE, and also to refer to DOE as "probable RD" or "probable FRD" all unmarked documents that "trained Historical Records RD Reviewers" determine to contain probable RD or FRD information, regardless of the date of the document.

(U) The one aspect of FRD information in which State has a direct equity is the classified presence, past, present, or planned, of U.S. nuclear weapon storage sites in a foreign country. In paper review, State will continue under 25X6 to invoke a State exemption up to 50 years on unmarked documents that contain such information and also refer them to DOE as "probable FRD." However, beyond 50 years from the document date, reviewers should simply ensure that such a document is referred to DOE and clearly cited as "probable FRD." No extended State exemption under Section 3.3(h) is authorized, and therefore we will not invoke 50X2. DOE will apply the FRD designation and has undertaken that, when RD or FRD captions are removed from records containing national security information, they will be referred to appropriate agencies prior to declassification. Efforts are underway to reduce the amount of country-specific nuclear storage information that must be protected as FRD, and, if successful, DOE and NARA

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will be able to adjust handling of previously withheld records, and additional guidance will be provided to reviewers.

(U) Records containing information on other weapons of mass destruction (e.g., chemical, biological) should be referred to the appropriate Defense Department agency for continued exemption, if authorized and appropriate, under that agency's approved Declassification Guide.

C. DIPLOMATIC RELATIONS (U)

(U) All of the considerations outlined under Part II.F. above for considering exemption from automatic declassification at 25 years are relevant to the review of documents for exemption from declassification at 50 years, except that the criteria for exemption are considerably more stringent. The following contingencies are authorized for exemption beyond 50 years and up to 75 years under **Section 3.3(h) as "50X6."**

(U) In making these judgments, reviewers should assess whether the document reveals key, sensitive classified concepts that are still in force or would cause major diplomatic difficulties for the U.S. Government, and not just a snapshot of a particular time long gone that is of historical importance. The fact that a foreign government would prefer that we hold particular information beyond 50 years is not sufficient grounds to do so unless it is clear that it would "*cause serious harm*" to U.S. foreign relations or ongoing diplomatic activities.

1. Nuclear Policy Options and Contingency Planning for Major Warfare (U)

(U) Whereas specific military plans would always be referred to the Department of Defense for adjudication, Department of State files contain some high-level proposals and even agreed postures regarding international contingencies that are still relevant and require continued protection. If such documents discuss options still in force, serious contingent actions that could still be invoked, and/or would seriously compromise current diplomatic relations if revealed, the documents should continue to be exempted from automatic declassification for an extended period beyond 50 years and up to 75 years from the document date. This is not to include mere think pieces by a single official suggesting possible contingency options, but would include a document that revealed, or commented in a revealing manner on, a policy in place or being given major high-level consideration.

(U) If nuclear weapons use policy or authority is revealed, NSS referral is also required.

2. Strategic Information of Continuing Critical Importance to an Ally (U)

(C) Specific major contingency plans of an allied or friendly foreign government, or specific information about such a nation's nuclear weapon capability, plans, or technology, should be protected beyond 50 years if the sensitive information is still

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reasonably current or revealing it would create demonstrable serious harm to current diplomatic relations. If technical or capability details are included, the records should of course also be referred to the appropriate agency that has the expertise necessary to evaluate it properly, usually Energy or Defense.

3. Sensitive International Agreements (U)

(U) Some classified treaties or agreements with foreign governments continue to be sensitive. Subjects may, for example, include intelligence gathering, mutual defense arrangements, aid to regions still in conflict, or technical annexes with specific base, deployment or other details that must be protected. In addition to the treaty or agreement text that remains sensitive, exemption must be extended to relevant background and negotiating documents and exchanges that reveal protected information. The Department of State shall, within one year of the approval of this Guide, review and inventory all classified agreements with foreign governments to determine which of these require continued protection beyond 50 years as determined by the Assistant Secretary of State responsible for relations with the country concerned.

1.4(D)

(U) If evoking Section 3.3(h) authority to extend exemption from declassification beyond 50 years for records described in this section, reviewers should exempt under both (6) and (9) as: **50X 6,9** and also refer to JCS and/or OSD if pertinent.

4. Information That Would Cause Serious Harm to U.S. Relations with a Foreign Government (U)

(U) This is not a catch all rubric under which anything previously exempted for up to 50 years can be extended further. Potential serious harm must be clear and specific. While it is not possible to foresee every instance in which such protection is required, the following Section 3.3(h) exemptions are authorized. Any additional extended exemption should be specifically approved at the level of an Assistant Secretary of State.

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(U) Comments by or reporting on a foreign leader, especially one representing a monarchy or a movement continuing to be prominent, that makes frank, derogatory comments about another nation's leader(s) who is still in power or is still significant to our relations with that state, may be exempted from automatic declassification beyond 50 years if sufficiently sensitive. Because of frequent changes of government and the death of some leaders, the requirement to exempt such material beyond 50 years will be rare. Even then, another 10 years will usually be adequate.

D. STATUTES, TREATIES, & INTERNATIONAL AGREEMENTS (U)

(U) For extended discussion of protection of most classified international agreements, see paragraph III.C.3. above.

(U) In some instances, such as the US-Soviet Special Consultative Commission (SCC) in arms control talks, there is formal agreement between the international parties that both sides must approve before release of the Commission's minutes and deliberations. Presumably most such material will have been released prior to 50 years, or a decision will have been made unilaterally to release. If not, approval to release unilaterally will be positively sought from the Assistant Secretary of State most involved with the issue whenever such previously exempted material is sought after 50 years to be released in response to a Mandatory or FOIA request.

(U) NATO: NATO registry documents shall be governed by the agreements on release of such documents that are current at the time of proposed declassification. Purely State Department equities concerning NATO shall only be withheld beyond 50 years if they fall under the exemptions authorized elsewhere in Part III of this Guide.

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