



The Secretary of Energy  
Washington, DC 20585

May 12, 2003

MEMORANDUM FOR HEADS OF ALL DEPARTMENTAL ELEMENTS

FROM: SPENCER ABRAHAM *Spencer Abraham*  
SUBJECT: National Security Decision Directive-189

The Commission on Science and Security in the 21<sup>st</sup> Century was established to assess the challenges facing the Department of Energy in operating premier scientific institutions in a manner that fosters scientific excellence, while protecting and enhancing national security. The Commission provided me its report in May 2002.

Measures to control and protect fundamental research were among the issues the Commission studied. The Commission recommended that President Bush reaffirm National Security Decision Directive-189 (NSDD-189), issued in 1985. NSDD-189, which generally exempted fundamental research from security regulations, states that in part that "...to the maximum extent possible, the products of fundamental research remain unrestricted. No restrictions may be placed upon the content or reporting of federally-funded fundamental research that has not received national security classification, except as provided by U.S. Statutes."

The Assistant to the President for National Security, Dr. Condoleezza Rice, recently advised that the key to maintaining U.S. technological preeminence is to encourage open and collaborative basic research.<sup>1</sup> She indicated that in the interim prior to completion of a broad-based review of technology transfer controls, the policy on the transfer of scientific, technical, and engineering technology as set forth in NSDD-189 remains in effect and should be followed. This means that unless a legal basis exists to control such research (either by classification or some other means), it shall not be controlled.

Please ensure that this policy is distributed within your organization and understood by affected parties. Any issues with applying this policy should be submitted to the Head of your departmental element.

<sup>1</sup> See 11/1/01 letter to Dr. Harold Brown, co-Chairman, Center for Strategic and International Studies in Appendix K of the Commission Report.

Attachment  
Hamre Report Recommendation 3-14



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**3-14 Seek reissuance of President Reagan's National Security Decision Directive 189 (NSDD-189) to reaffirm that fundamental research is generally exempt from security regulations and that any controls can be imposed only through a formal process established by those regulations.**

Background:

*NSDD-189 remains in force, but too few government security and management personnel know about it. The Commission believes that reissuing NSDD-189 would have a very positive effect in changing perceptions in Washington and would strike a healthier balance between open and collaborative science and the imperatives of national security at the laboratories.*

The fundamental research exemption was confirmed in a November 1, 2001, letter from Condoleezza Rice, Assistant to the President for National Security Affairs to Harold Brown, Co-Chairman of Center for Strategic International Studies (see attachment). The letter states, "In the context of broad-based review of our technology transfer controls that will begin this year, this Administration will review and update as appropriate the export control policies that affect basic research in the United States. In the interim, the policy on transfer of scientific, technical and engineering information set forth in NSDD-189 shall remain in effect, and we will ensure that this policy is followed."

Sensitivities:

NONE

Departmental Response:

The Department agrees with the Commission's recommendation.

The Secretary will send a memorandum to DOE Headquarters and field offices and the laboratories reconfirming the importance and validity of NSDD-189.

Attachment