

DEPARTMENT OF STATE
Washington

September 30, 1958

Dear Mr. Stans:

The Department has reviewed the proposed Executive order entitled "Delegating Certain Authority under the Atomic Energy Act of 1954, as amended" about which the Bureau of the Budget, in its letter dated September 15, 1958, requested the Department's views.

Public Law 85-479, to which the proposed Executive order relates, deals with international cooperation in the field of atomic energy and, accordingly, the Department took an active part in the process culminating in the enactment of that legislation. Hence the Department favors the institution of procedures to facilitate implementation of international agreements concluded pursuant to the new legislation.

The Department, however, would prefer to see a proposed Executive order submitted to the President along the lines of the draft attached. This draft would make it clear that the requirement of Presidential scrutiny of a proposed program for transfer of materials or equipment under section 91c was not being delegated.

Moreover, since it is essential to issue an Executive order on agency responsibilities for at least one function pertaining to cooperation with foreign governments it would appear desirable to treat the matter in the context of an order dealing generally with agency responsibilities for intergovernmental cooperation on atomic energy matters. In this connection it should be noted that the particular function treated in the proposed order is so interwoven with the observance of United States obligations under international agreements that some express recognition of the responsibility of the Secretary of State in the conduct of foreign relations seems appropriate. The Executive order, if silent on the responsibilities of the Secretary of State, might contribute to misconceptions on the part of foreign governments with respect to assignment of basic responsibilities within the Executive.

The attached draft would accomplish all that seems desirable without requiring additional formal procedures.

Sincerely yours,

For the Secretary of State:

Enclosure:

(signed) William Macomber

Draft Executive order.

William B. Macomber, Jr.
Assistant Secretary

The Honorable

Maurice H. Stans,

Director, Bureau of the Budget.

EXECUTIVE ORDER

Whereas the provisions of the Atomic Energy Act of 1954, as amended, relating to international cooperation confer functions upon the President;

Whereas I have determined that the performance of these functions in the manner set forth hereinafter will promote the orderly administration of such cooperation and effectuate the policies set forth by the Act;

Now, therefore, by virtue of the authority vested in me by section 301 of Title 3 of the United States Code and as President of the United States, it is ordered as follows:

1. (a) Except as otherwise provided in this order, the functions conferred upon the President by sections 91c, 144b and 144c of the Atomic Energy Act of 1954, as amended, are hereby delegated to the Atomic Energy Commission and the Department of Defense acting jointly. In carrying out this responsibility those agencies shall consult with other interested government agencies.

(b) In any case where the Atomic Energy Commission and the Department of Defense are unable to agree in connection with the carrying out of such functions, the recommendations of those agencies and of other agencies concerned shall be referred to the President and the determination shall be made by the President.

2. The President's approval, pursuant to section 123 of the Act, of a proposed agreement for cooperation providing for cooperation pursuant to sections 91c or 144 shall constitute the authorization to cooperate to the extent provided for in the proposed agreement.

3. (a) The functions of negotiating and entering into international agreements shall be performed by the Secretary of State.

(b) All international cooperation functions under the Act shall be subject to the responsibilities of the Secretary of State with respect to the foreign policy of the United States as such policy relates to those functions.

4. There are reserved to the President the functions conferred upon him by section 123 of the Act and the function of approving the terms and conditions of a program proposed under section 91c of the Act.

5. This order shall take effect immediately.

Attachment of State Department
letter of 9-30-58. Copied
10-7-58.