

EMBASSY OF THE
UNITED STATES OF AMERICA

Canberra, June 25, 2002

No.81

Excellency:

I have the honour to refer to the Agreement between the Government of Australia and the Government of the United States of America concerning security measures for the protection of classified information ("GSOIA") and to express the following understandings of the United States, which are intended to aid the interpretation of the GSOIA based on the parties' discussions during the negotiations.

The Parties confirm that the phrase "classified information received from the other Party" wherever it appears in the text of the Agreement is

His Excellency

Alexander Downer

Minister for Foreign Affairs of Australia,

Canberra

intended to mean classified information, in the broadest sense, provided directly or indirectly by one Party to the other Party, or to an officer or other representative of the Parties, including classified information jointly generated by the Parties. The phrase is intended to cover classified information that is provided to the recipient Party for its own purposes or for the purposes of passing to a contractor of the originating Party.

It is the intention of the Parties that, in Article 2, "generated by or for the Government of the United States or the Government of Australia or that is under the jurisdiction or control of one of them and which requires protection in the interests of national security of that government" be read as descriptive of the nature of the information with which the Agreement is concerned. It will be information of this nature that will be assigned a security classification. The Parties confirm, however, that they will protect classified information in accordance with the terms of the Agreement on the basis only that it is designated by the assignment of a security classification. No questioning of the nature of the information will be required or will be made to invoke the protections of the Agreement.

The Parties note that the term "personnel security clearance" wherever it appears in the text refers for the purposes of the Government of Australia to a "personal security clearance".

In respect of the requirements for security clearances in the Agreement, the Parties acknowledge the special status of elected representatives at the federal level, and confirm their intention to continue to apply their current practices to them.

It is the intention of the Parties that protection of private rights, such as patents, copyrights or trade secrets, is an issue to be dealt with in detail separately from the Agreement. While the Parties in Article 4 D confirm their commitment to respect private rights, how this commitment will be manifested will depend upon separate detailed agreements or arrangements and the laws of the Parties. The extent of knowledge of a recipient Party of such rights may also be relevant.

I would appreciate your Excellency confirming that the understandings described above are also the understandings of the Government of Australia.