

UNIVERSITY OF TORONTO  
**THE GOVERNING COUNCIL**

**Monday June 3, 2002**

MINUTES OF THE GOVERNING COUNCIL meeting held on Monday, June 3, 2002 at 4:30 p.m. in the Council Chamber, Simcoe Hall.

Present:

Ms Wendy M. Cecil (In the Chair)	Mr. David Melville
Dr. Thomas H. Simpson, Vice-Chair	Mr. Andrew Morgan
Professor Robert J. Birgeneau, President	Professor Heather Munroe-Blum
Professor Mary Beattie	Dr. John P. Nestor
Dr. Robert Bennett	Ms Jacqueline C. Orange
Professor Philip Byer	Ms Rose M. Patten
Professor Jack Carr	Mr. Kashif Pirzada
Ms Mary Anne V. Chambers	Mrs. Susan M. Scace
Professor Brian Corman	Ms Heather Schramm
Professor W. Raymond Cummins	Professor Adel S. Sedra
Mr. Brian Davis	Mr. Amir Shalaby
Professor Sherwin Desser	Ms Carol Stephenson
Dr. Alice Dong	Ms Wendy Swinton
Dr. Inez Elliston	Mr. Robert S. Weiss
Ms Susan Eng	Professor Donna Wells
Dr. Shari Graham Fell	
Professor Luigi Girolametto	Mr. Louis R. Charpentier, Secretary of the Governing Council
Ms Shirley Hoy	
Professor David Jenkins	
Ms Françoise Ko	<u>Secretariat:</u>
Professor Brian Langille	
Ms Karen Lewis	Mr. Neil Dobbs
Mr. Gerald A. Lokash	Ms Cristina Oke
Professor Ian R. McDonald	

Absent:

Dr. Claude Davis	
The Honourable William G. Davis	Ms Patricia Ricci
Mr. Paul V. Godfrey	Dr. Joseph L. Rotman
The Honourable Henry N. R. Jackman	Mr. John H. Tory
The Honourable David R. Peterson	Professor John Wedge
The Honourable Robert K. Rae	Ms Geeta Yadav

In Attendance:

Mr. Sean Mullin, Member-Elect, Governing Council  
Mr. Elan Ohayon, Member-Elect, Governing Council and Vice-President, External,  
Graduate Students' Union  
Mr. Tim Reid, Member-Elect, Governing Council  
Mr. Felix P. Chee, Vice-President, Business Affairs  
Dr. Jon Dellandrea, Vice-President and Chief Advancement Officer  
Professor Angela Hildyard, Vice-President, Human Resources

In Attendance (cont'd):

Dr. Sheldon Levy, Vice-President, Government and Institutional Relations and Interim Vice-Provost, Students  
Professor Derek McCammond, Vice-Provost, Planning and Budget  
Dr. Peter Munsche, Assistant Vice-President, Technology Transfer and Acting Vice-President, Research and International Relations  
Professor Ronald Venter, Vice-Provost, Space and Facilities Planning  
Professor Rona Abramovitch, Director, Transitional Year Program  
Professor Carl Amrhein, Dean, Faculty of Arts and Science  
Mr. Jason Bechtel, Intellectual Property and Contracts Counsel  
Mr. John Bisanti, Chief Capital Projects Officer  
Professor Ronald Daniels, Dean, Faculty of Law  
Dr. Beata FitzPatrick, Director of the Office of the President and Assistant Vice-President  
Mr. Mohammed Hashim, University Affairs Commissioner, Students' Administrative Council  
Professor Sean Hawkins, Executive Committee, University of Toronto Faculty Association  
Ms Alison Hudgins, Outside Counsel, University of Toronto Faculty Association  
Mr. Rocco Kusi-Achpong, President, Students' Administrative Council  
Mr. John Lea, Vice-President, Operations, Students' Administrative Council  
Ms Lesley Lewis, Assistant Vice-Provost, Professional Faculties  
Ms Mary McGee, Assistant Provost  
Ms Catherine Riggall, Assistant Vice-President, Facilities and Services  
Ms Emily Sadowski, President, Association of Part-time Undergraduate Students  
Ms Maureen Somerville, Chair, College of Electors  
Mrs. Beverley Stefureak, Assistant Secretary of the Governing Council

**1. Chairman's Remarks****(a) Opening Comments**

The Chairman welcomed members and guests. She thanked members for arriving early to be included in the photograph that had been taken on the occasion of the thirtieth anniversary of the founding of the Governing Council. She explained that the photograph would be framed and hung, along with the photograph celebrating the twentieth anniversary, in an appropriate place within the Office of the Governing Council.

**(b) St. Clair Balfour**

Before continuing with the regular business, the Chairman asked members to pause for a moment to remember the life and contribution of St. Clair Balfour, who had died on May 9<sup>th</sup> at the age of 92.

She described St. Clair Balfour as an extraordinary human being who had presided over one of Canada's great newspaper empires – the Southam papers. He had regarded journalism as a public trust, and allowed writers to make their own political judgements, and editors to hire their own writers. In 1962, he had established the Southam Fellowships, (now called The Canadian Journalism Fellowships) that allowed leading journalists to study at this University for a full academic year.

She noted that St. Clair Balfour had been a devoted Canadian who had served in the Royal Canadian Navy in the second world war and had been awarded the Distinguished Service Cross for his bravery.

**1. Chairman's Remarks (cont'd)**

St. Clair Balfour had been a devoted family man who had celebrated his 69th wedding anniversary just before his death.

The Chairman informed members that St. Clair Balfour had been a devoted alumnus and friend of the University of Toronto. He had chaired the Breakthrough Campaign – the largest campaign before the current one. He had served on the Governing Council for nine years. From 1984 to 1988, he had been Chair of the Council. The enormous respect in which he was held by everyone had helped make possible four years of great achievement by the Council. During these years, George Connell had launched his successful Presidency, an improved process for determining salaries and benefits for faculty had been established, and a review of the University's governance system that had led to the current structure was undertaken.

Members and guests rose and observed a minute of silence in honour of the memory of St. Clair Balfour.

**(c) Welcome**

The Chairman extended a particular welcome to the members-elect of the Governing Council who were or had planned to be in attendance: Mr. Harmeet Gill, Mr. Sean Mullin, Mr. Colm Murphy, Mr. Elan Ohayon, and Mr. Tim Reid. She also welcomed Ms Alison Hudgins and Professor Sean Hawkins who were attending the meeting on behalf of the University of Toronto Faculty Association, and Ms Maureen Somerville, the Chair of the College of Electors.

**(d) Speaking Requests**

The Chairman reported that she had granted a speaking request from the University of Toronto Faculty Association to address item 4 (a). She indicated that she would call upon the speaker at the appropriate time in the agenda.

**(e) In Camera Session**

The Chairman noted that a revised agenda had been distributed which placed the *in camera* session at the end of the meeting.

**2. Minutes of the Previous Meeting**

A member requested that the minutes of the previous meeting be amended to include the text of the sections of the *University of Toronto Act* that were referred to in Item 9, Budget Report 2002-03. The minutes of the previous meeting held on May 2, 2002 were approved as amended.

**3. Business Arising from the Minutes of the Previous Meeting**

The Chairman recalled that there had been three notices of motion given at the meeting of May 2. She informed members that the disposition of these notices of motion was addressed in Report Number 348 of the Executive Committee.

**4. Report of the President**

The President reported on a number of issues.

#### **4. Report of the President (cont'd)**

##### **(a) Provincial Government Relations**

The President informed members that encouraging statements had been made about funding for enrolment growth at Ontario's universities, but it would be necessary to await a formal announcement in the Provincial budget expected in mid-June. The Executive Heads of Ontario universities had been asked to meet with the Minister of Training, Colleges, and Universities on June 10. There had been indications that full average funding for all additional students would be provided, but would be accompanied by the requirement that universities accommodate all qualified students seeking admission.

On the capital side, the President indicated that there had been some discussion about the possibility of a fund for infrastructure which might cover both facilities renewal and new capital. It remained to be seen what the Provincial budget would provide. The President noted that there was no indication that inflation protection would be built into provincial funding.

The President reported that, in the Speech from the Throne, the government had indicated that a second round of Ontario Student Opportunity Trust Fund (OSOTF) awards would be created. At the request of the President, Dr. Jon Dellandrea, Vice-President and Chief Advancement Officer, told members that, in the previous round, \$225 million had been made available, of which the University of Toronto had received \$114 million.

The President noted that he and Professor Tuohy would be meeting with the Honourable Jim Flaherty, Minister of Enterprise, Opportunity and Innovation, and would be encouraging the government to replenish its investments in such programs as the Ontario Innovation Trust (OIT) and the Ontario Research and Development Challenge Fund (ORDCF).

##### **(b) Federal Government Relations**

The President informed members that he had been invited to serve on a select committee of university presidents to provide advice to the federal government on appropriate funding initiatives for universities to be included in the next federal budget. The President also reported on his meeting with the heads of the three federal granting councils.

##### **(c) Participation in Review Activities**

The President informed members that he had served on the Reallocation Committee of the Natural Sciences and Engineering Research Council (NSERC).

He described his recent involvement in a review of the Swiss federal post-secondary system. The two federal universities in Switzerland had a total of 20,000 students in business, science and engineering, and received funding of \$100,000 per student. These universities had set a target of 70% foreign PhD students and were intending to actively recruit from India and China.

**4. Report of the President (cont'd)****(d) Recent Appointments/Transitions**

The President reported on several recent appointments.

Dr. Peter Munsche had been appointed as Acting Vice-President, Research and International Relations for the month of June 2002. The President noted that Professor Carolyn Tuohy would become Interim Vice-President, Research and International Relations on July 1<sup>st</sup>. The President indicated that he would be undertaking a review of the portfolio very shortly, and a search for the next Vice-President, Research and International Relations would begin in the fall.

Ms Connie Guberman had been appointed as Status of Women Officer for a five-year term beginning on August 1, 2002.

Professor James Barber would serve as Dean of the Faculty of Social Work from January 1, 2003 until June 30, 2009. An Acting Dean of the Faculty of Social Work would be appointed from July 1, 2002 to December 31st 2002.

**(e) Convocations**

The President reminded members of the convocations that were scheduled between June 10 and 25 and encouraged the participation of Council members.

The Chairman reported briefly on the successful special convocation for Dr. Toni Morrison which had been held on May 28.

**5. Copyright Policy**

Professor Carr informed members that the new Copyright Policy had grown out of the work of the Task Force on Intellectual Property relating to Instructional Media. There had been a good discussion of the new policy at the meeting of the Committee on Academic Policy and Programs. Members of the Academic Board had heard a presentation from the President of the University of Toronto Faculty Association (UTFA) and a response from Dr. Munsche. The proposal, if approved, would create a new policy, repeal the old policies on copyright and computer software, and amend the policy on inventions.

Professor Carr drew the attention of members to a correction in the new Copyright Policy. In section 2.6, the date of the Inventions Policy should be 1990 not 1999 as shown.

Professor Munroe-Blum introduced Dr. Peter Munsche, Assistant Vice-President, Technology Transfer and Acting Vice-President, Research and International Relations; Professor Ron Daniels, Dean of the Faculty of Law and Chair of the Task Force; and Mr. Jason Bechtel, Intellectual Property and Contracts Counsel. She noted that the Task Force had carried out its work over the past year and had consulted extensively with members of the University community. She indicated that the principles raised by UTFA had been shared by the Task Force.

**5. Copyright Policy (cont'd)**

At the invitation of the Chairman, Ms Alison Hudgins, Outside Counsel for UTFA, addressed the Council. Ms Hudgins stated that the May 22 letter that had been distributed to members of the Governing Council reflected the official position of the Association. In the opinion of UTFA, the consultation process had been wide but not deep. Ms Hudgins noted a possible conflict of interest that might arise from the role of the Dean of Law defined in the arbitration provisions of the policy, should the arbitration involve a member of the Faculty of Law.

Ms Hudgins highlighted two issues that were of particular concern to UTFA. The first issue was the ownership of copyright of specifically commissioned work by the University under a written agreement with the author. It was the view of UTFA that this was contradictory to a long-standing academic tradition. The second issue was the concern that commercialization was taking priority over the dissemination of knowledge. It was the opinion of UTFA that previous protections against external use had been deemed as barriers to commercialism and removed from the new policy.

On behalf of UTFA, Ms Hudgins encouraged members to delay consideration of the Copyright Policy until the issues raised by UTFA had been addressed.

As there were no objections from members, the Chairman granted a speaking request by Mr. Elan Ohayon, Vice-President, External of the Graduate Students' Union, that had been made immediately prior to the Council meeting. Mr. Ohayon stated his opinion that dissemination of knowledge rather than ownership of intellectual property should be the focus of the University. In his view, the University should follow a policy of open source publication.

At the invitation of the Chairman, Professor Daniels informed members that the Task Force members had sought best practices outside the University and had developed the policy to support the mission of the University. Commercialization was the second priority of the policy. Professor Daniels indicated that having authors own copyright in the works that they produce was consistent with the academic mission of the University. The intention of the policy was to clarify ownership rights.

Professor Daniels assured members that appropriate action would be taken should a conflict of interest arise for the Dean of Law with respect to the arbitration process.

At the invitation of the Chairman, Dr. Munsche commented that the Task Force Report clearly indicated that the support of the members of the Task Force who were representatives from UTFA did not imply the support of UTFA itself with respect to the proposed policy. The inclusion of research data and tools in the *Inventions Policy* was intended to clarify that research data and research tools jointly belong to those who created them and to the University.

At the invitation of the Chairman, Professor Amrhein noted that the Task Force Report built on the work of previous Task Forces.<sup>1</sup> The proposed distribution of revenue appropriately recognized the contribution of the author's department and division towards the commercialization of the work. In his opinion, the policy was several years overdue.

## 5. Copyright Policy (cont'd)

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<sup>1</sup> Report of the Provostial Task Force on Academic Computing (The Amrhein Report), 1995  
Report of the Task Force on Academic Computing and New Media, 2000  
Report of the Task Force on Technology-Assisted Education, September 2001

Professor Munroe-Blum remarked that, in her view, the Copyright Policy was fair and effective and responded to the challenges of copyright and commercialization by respecting the rights of faculty to choose whether or not they wish to pursue commercialization of their work.

A member inquired whether the questions raised in the letter from UTFa concerning moral rights, copyright ownership and ownership of research data and research materials had been answered. Professor Munroe-Blum replied that, in her opinion, the policy strengthened the protection of moral rights. Dr. Munsche indicated that, under the proposed policy, the responsibility to protect moral rights lay with the author of the work.

The member asked whether the concerns about ownership through the commissioning of the work by the University had been addressed. Professor Daniels replied that the policy attempted to disentangle ownership of a work from the use of University resources in creating it. The policy provided a strong default position for situations which involved a revenue stream from commercialization of a work arising out of substantial use of university resources in the creation of that work.

The member asked whether the proposed policy on copyright and the proposed revisions to the *Inventions Policy* created a change in the ownership of research data. Dr. Munsche replied that there had been some ambiguity under the old policy. Including research data and research tools in the *Inventions Policy* made them jointly owned by the University and their creators. If the research data and research tools were to be commercialized, they would be disclosed and assigned under the *Inventions Policy*. If there were no disclosure or assignment, the University would have the right to ensure that the research data and research tools were preserved and made accessible for research purposes.

A member referred to section 5.3 of the proposed policy which provided for a review of the policy and its implementation three years after the date on which the policy took effect. The member expressed concern over section 2.7 (c) which provided for modification of the rights and obligations of the policy by written agreement. The member requested that a report be presented to the Governing Council in a year's time on the modifications that had been agreed to, and on the types of disputes that had arisen from the implementation of the policy.

A member noted that there did not appear to be protection for open source software under the proposed policy. Dr. Munsche replied that the policy provided protection to the owner of open source software by allowing the owner to choose the way in which the software would be used.

On motion duly moved and seconded,

It was RESOLVED

1. THAT the University of Toronto Copyright Policy, dated April 9, 2002, a copy of which is attached to Report Number 112 of the Academic Board as Appendix "A", be approved.
2. THAT the University of Toronto Policy on Copyright and Other Proprietary Rights (May 19, 1977) and the University of Toronto Policy on Computer Software (April 14, 1988) be repealed.

## 5. Copyright Policy (cont'd)

3. THAT the University of Toronto Inventions Policy be amended as outlined in the memorandum from Vice-President Heather Munroe-Blum, dated April 8, 2002, a copy of which is attached to Report Number 112 of the Academic Board as Appendix "B".

Professor Munroe-Blum thanked Dr. Munsche for his many contributions to the work of the Office of Vice-President, Research and International Relations.

## 6. Update on Enrolment Expansion

Professor Carr reported that Professor McCammond had given a very effective overview of the enrolment expansion issue to the Academic Board. A copy of his presentation had been attached to Report Number 112 of the Academic Board. Professor Carr explained that Board members had asked questions about planning for the increased numbers in terms of new programs and support, ongoing discussions with the government, communication strategies and opportunities to increase the quality of the student body.

At the invitation of the Chairman, Professor McCammond provided members with an update of the University's plans concerning enrolment expansion. A copy of his Powerpoint presentation is attached hereto as Appendix "A".

Among the highlights were the following:

- The need for enrolment expansion had been created by a substantial increase in the applicant pool for several reasons, including demographics, increased participation rates, changing workplace requirements and the phasing out of Grade 13 which created a double cohort of high school graduates.
  - Two estimates of the number of additional students that would enter the system had been provided.
    - In 1999, a report from PricewaterhouseCoopers estimated that there would be 74,000 extra students in the university system by 2004.
    - A Working Group of the Ministry of Training, Colleges and Universities (MTCU) and the Council of Ontario Universities (COU) estimated that there would be 57,559 extra students by 2004.
    - The actual enrolment in 2001 was greater than that estimated by PricewaterhouseCoopers.
  - *A Framework for Enrolment Expansion at the University of Toronto* was endorsed by the Governing Council in April 2000. This Framework was based on three fundamental principles:
    - The balance in enrolment among various levels of study (first entry, second entry, professional, and doctoral stream) would be maintained;
    - The most significant expansion would take place at the University of Toronto at Mississauga (UTM) and the University of Toronto at Scarborough (UTSC);
    - At least current entering averages would be maintained.
  - In September 2000, the Ministry requested enrolment growth plans from each institution for each academic year from 2001 through 2006. The University of Toronto submitted two plans, both conditional on adequate operating funding, and the second conditional upon adequate capital funding. The projected enrolment growth was 4,000 in the first plan and 9,000 in the second plan.
6. Update on Enrolment Expansion (cont'd)



- In 2001-02, total enrolment in first-entry programs increased by 1,000 students over 2000-01 levels.
- It was decided that enrolment expansion would proceed in two phases at UTM and UTSC. Phase 1 would be limited to the number of students accommodated by current capital construction projects. Phase 2 would proceed only upon receipt of additional capital funding from the Province.

The Chairman thanked Professor McCammond for his presentation.

A member asked whether the additional students would only be full-time students. Professor McCammond replied that the estimates were based on full-time equivalents, and allowed a mixture of full-time and part-time students.

A member asked what the University's communication plan was with respect to the double cohort. The President replied that the University had always indicated that it was eager to meet its responsibility to take in additional students, but could not do that without the provision of appropriate funding by the province.

A member observed that the funding provided by the Ontario SuperBuild Growth Fund provided only a part of the cost of constructing new facilities. The University itself had been forced to secure a substantial proportion of the cost through the proceeds of fundraising and borrowing that would have to be repaid over time from operating funds. The President agreed that this was the case, but the University of Toronto had been particularly fortunate in its ability to secure other funding from donations and from its successful applications to the Canada Foundation for Innovation and the Ontario Research and Development Challenge Fund. Other universities had encountered serious shortfalls in securing funding to accompany that from the SuperBuild Growth Fund. Dr. Levy added that the outcome was that SuperBuild Growth Fund had provided facilities to enable enrolment expansion amounting to only about 2,600 places. At the University of Toronto, SuperBuild had, apart from the Mississauga Centre for Culture, Communication and Information Technology, funded facilities intended more for research than enrolment expansion.

A member noted Professor McCammond's statement that a proportion of the expansion of the doctoral-stream enrolment would not be funded. Would the University be able to afford full funding packages for the additional students? Would it be able to afford the additional faculty to teach them? Professor McCammond replied that the number of additional doctoral-stream students would indeed exceed the number who were funded, but the funding would not be associated with individual students. The University wished to enrol the additional doctoral-stream students in order to prevent too large an imbalance between undergraduate and graduate students. The University's calculations indicated that it would be able to provide full support packages to the increased number of doctoral-stream students, although the limit on Provincial funding prevented the University from increasing graduate enrolment to the extent required to maintain the current graduate / undergraduate balance. With respect to teaching resources, a substantial number of faculty would be hired to teach the additional undergraduate enrolment, and all of those faculty members would wish to teach graduate students as well. The outcome would in fact be a reduction in the average number of graduate students per faculty member.

## **6. Update on Enrolment Expansion (cont'd)**

A member sought assurance that the total enrolment increase of 8,281 that was being considered for approval tied in to the 2002-03 budget that had been approved. Professor Sedra replied that the enrolment figures were fully consistent with those upon which the budget was based.

Invited to comment, Dr. Levy indicated that the government would be asking each university to determine the number of students that it could receive and to identify the number of qualified double cohort students expected to apply for admission. Penalties might be applied to universities that did not offer admission to the number of students that it had identified.

A member noted that students in the double cohort would be younger and less prepared for university, and asked what action the University would be taking to address their needs. Dr. Levy replied that the administration was working with student groups on orientation programs to deal with these issues. The President added that residence capacity was also being increased.

On motion duly moved and seconded,

It was RESOLVED

1. THAT the enrolment expansion as described in Figure 3 of the report *Update on Enrolment Expansion*, dated April 8<sup>th</sup>, 2002, a copy of which is attached to Report Number 112 of the Academic Board as Appendix "E", be approved in principle, and
2. THAT the principles for allocation of resources as described in the section entitled RESOURCE IMPLICATIONS and detailed in Appendix A of the report be approved.

## **7. Reports for Information**

The Governing Council received the following Reports for information

Report Number 112 of the Academic Board (May 7, 2002)  
Report Number 118 of the Business Board (May 6, 2002)  
Report Number 107 of the University Affairs Board (April 30, 2002)  
Report Number 348 of the Executive Committee (May 21, 2002)

A member referred to the motion on ticketing in Report Number 348 of the Executive Committee, and asked what would be involved in the process of examination of the issue of attendance at Governing Council meetings. The Secretary undertook to consult with the member on this matter. The Vice-Chair stated that members of the Executive Committee felt strongly that it was their responsibility to resolve the matter of ticketing since it had originated with the Committee.

## **8. Date of the Next Meeting**

The Chairman reminded members that the final regular meeting of the Governing Council for this academic year was scheduled for Thursday, June 27 at 4:30 p.m.

## **9. Question Period**

A member expressed his delight at the creation of a second round of OSOTF awards, and asked whether it would be a matching program. The President replied that the details of a matching program were not yet known.

A member asked whether any restructuring of the Ontario Student Assistance Program (OSAP) was anticipated. The President replied that Dr. Levy was meeting with student governors and student government leaders to look at working together on needed revisions to OSAP.

A member inquired whether only Phase 1 expansion projects were proceeding at this time. The President replied that the Province had not made any commitment on the capital funding that was required for Phase 2 projects.

A member asked whether part-time students would be eligible for places in residence, given the expansion of residence capacity. Professor Sedra replied that, at this time, residences were limited to full-time students only.

## **10. Other Business**

### **(a) Address by Non-Member**

The Chairman invited Ms Emily Sadowski, President of the Association of Part-time Undergraduate Students (APUS), to address the Council. Ms Sadowski expressed the opinion of APUS that ticketing was undemocratic and exclusive. She asked what process had been used to come to the decision of implementing the ticketing system. She stated that, in her view, ticketing was dehumanizing because it excluded the faces of people for whom decisions were being made. She asked whether ticketing was being used to silence dissent.

The Chairman thanked Ms Sadowski for her remarks and re-iterated that the issue of ticketing would be discussed at the next meeting of the Executive Committee.

### **(b) Convocation**

The Chairman encouraged members to participate in the June Convocations.

IN ACCORDANCE WITH A DETERMINATION BY THE EXECUTIVE COMMITTEE PURSUANT TO SECTION 38 OF BY-LAW NUMBER 2, THE GOVERNING COUNCIL CONSIDERED ITEM 11 *IN CAMERA*.

## **11. Governing Council: Members' Committee Assignments, 2002-2003**

On motion duly moved and seconded,

It was RESOLVED

THAT the Board and Committee assignments for 2002-2003, as described in the chart dated May 21, 2002 and attached hereto as Appendix "B", be approved.

The meeting adjourned at 7:00 p.m.

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Secretary  
June 12, 2002

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Chairman