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NAVY, ARMY and OSD review(s) completed.

28 FEB 1975

MEMORANDUM FOR: Deputy Director of Security (P&M)
THROUGH : Chief, Policy and Plans Group
SUBJECT : Agency Participation in National Military
Information Disclosure Policy Committee (NDPC)
REFERENCE : Memorandum from C/PPG, Same Subject; dated
16 December 1974

1. The reference asks that I gather additional information on the subject and questions raised by the reference to be used as further guidance in deciding whether this activity should be retained in the Office of Security. I have made an intensive review of the NDPC files. My thoughts on this matter are the result of this review.

2. A reading of the reference suggests that the following questions are being asked:

- a. What is the National Disclosure Policy?
- b. What is the National Disclosure Policy Committee?
- c. What is the relationship of the NDPC to the National Security Council (NSC)?
- d. What is the distinction between General and Special membership on the NDPC?
- e. What are the requirements of DCI membership on NDPC?
- f. What does the DCI representative have to concern himself with?
- g. Why does NDPC membership occur as a DCI representative rather than as a CIA representative?
- h. When would the Agency request an exception to the National Disclosure Policy?

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- i. When does the Agency participate in NDPC security surveys?
- j. Has Agency representation on the NDPC been passive and if so has this been the cumulative product of inaction or a deliberate choice?
- k. Would Agency participation be more efficiently drawn from the DDO?

3. The National Military Information Disclosure Policy Committee (NDPC) is the central authority for the formulation, promulgation, administration and monitoring of the national policy and procedures for the disclosure of classified Military information to foreign governments and international organizations. The key to placing the NDPC in its proper context is the word Military.

4. The NDPC is just one facet of the total U.S. Government activity involving the disclosure of classified U.S. defense information to foreign governments and international organizations in order to a) facilitate the implementation of military assistance programs; b) to improve the self-defense capabilities of allied and friendly countries; c) to encourage mutual and regional defense planning; d) to obtain reciprocal intelligence; and, e) to contribute to the attainment of broad U.S. military and foreign policy objectives. The objective is one of national self-interest. National security assets are being shared with foreign entities where there is a clearly defined net advantage to the U.S. government to do so.

5. The disclosure policy of the U.S. government is currently based on two documents. The first is the Presidential directive of 23 September 1958, "Basic Policy Governing the Release of Classified Defense Information to Foreign Governments." The second is the National Security Decision Memorandum 119 dated 20 July 1971, "Disclosure of Classified United States Military Information to Foreign Governments and International Organizations." NSDM 119 supersedes those provisions of the Presidential directive of 23 September 1958 pertaining to the disclosure of classified military information to foreign recipients and assigns implementing responsibility jointly to the Secretaries of State and Defense. The 23 September 1958 directive remains binding for classified non-military defense information, that is information not under the control or jurisdiction of the Department of Defense, its departments or agencies, or of primary interest to them. Both policy statements are binding

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on the heads of each department and agency of the Executive branch. Both policy statements require annual reports to the National Security Council. The mechanism for a continuing review of the implementation of the directive of 23 September 1958 is the Interdepartmental Committee on Internal Security. A comparable mechanism for NSDM 119 is the NDPC.

6. The disclosure of classified defense information has a long history. The first step in coordinating policy on disclosures took place in November 1934 when the Department of State initiated action leading to an agreement reached by the Secretaries of State, War and Navy under which the three departments would consult with each other on matters regarding the export of war materiel relating to the national defense of the U.S. It was essential that disclosures be in consonance with the foreign policy and military and security objectives of the U.S. This coordination was effected through an exchange of letters to coordinate on shipments of war materiel enabling the State Department to receive guidance in issuing export licenses from the viewpoint of military security. No other formal interdepartmental procedure existed.

7. In 1944, the Secretary of State felt the necessity for a centralized, high level control to determine what future information might or might not be transmitted to foreign nations to which the Secretaries of War and Navy and the Joint Chiefs of Staff agreed. As a result, a Committee, the Technical Information Security Control Committee (TISCC) was established in early 1945 composed of representatives from State, War and Navy. The TISCC immediately recommended to the State-War-Navy Coordinating Committee (SWNCC) that it be constituted a subcommittee of the SWNCC. In March 1945, the SWNCC agreed and established the subcommittee for Technical Information Security Control with responsibility for controlling the release of classified technical information to foreign nations. This was later changed to the State-War-Navy Coordinating Committee for Military Information Control (SWNCC-MIC) and its responsibility was expanded beyond the control of classified technical information to apply to all military information released to foreign nations.

8. In 1946, in response to governmental requirements for a post-war policy on the release of classified information to foreign governments, the Secretaries of State, War and Navy developed for Presidential approval a statement of "Basic Policy Governing the Disclosure of Classified Military Information to Foreign Governments." In approving this policy on 27 February 1946, the President directed the Secretaries of State, War and

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Navy to exercise joint control of the disclosure of classified military information to foreign governments. Under the Re-organization Act of 1947, the Secretary of Defense assumed the responsibilities of the Navy and War Secretaries. The SWNCC-MIC carried out joint State-War-Navy control of the release of classified information to foreign governments from 1946 to 1949.

9. On 30 June 1949, the State-Defense Military Information Control Committee (S-DMICC) was established to function as the agency of the Departments of State and Defense for developing, recommending and promulgating policies and procedures concerning the disclosure of classified military information to foreign governments. Membership was composed of State (Chairman), Army, Navy, Air Force and the Research and Development Board. The CIA was given an "observer" status on the Committee. On 1 August 1964, the S-DMICC was renamed the United States Military Information Control Committee (US-MICC). Effective 7 October 1966, the US-MICC became the National Military Information Disclosure Policy Committee (NDPC).

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10. In late 1968, the State Department felt that a change in NDPC chairmanship was in order since in practice the work of the Committee primarily involved the Department of Defense. An Executive Committee was established on 11 February 1969 under the chairmanship of DOD/International Security Affairs but with an Executive Director provided on an interim basis by State to perform functions under NDPC, until the Department of Defense acquired sufficient manpower spaces for this function. The responsibility for the executive direction of the National Disclosure Policy (NDP) was transferred from the Department of State to the Department of Defense effective 1 January 1970. As of this date, the Chairman, Executive Director as well as the administrative and secretarial support to the Committee is furnished by the Department of Defense. The basic National Disclosure Policy (NDPC-1) was revised and reissued also effective 1 January 1970 as National Disclosure Policy (NDP-1). NDP-1/5 dated 25 November 1974 is the currently effective revision of the National Disclosure Policy.

11. With the passage of the National Security Act in 1947, a new element was introduced into foreign disclosure procedural problems. Heretofore, the Secretary of State had assumed overall responsibility for the implementation of foreign disclosure policy since the raison d'etre for releasing classified defense information to foreign governments was to further United States foreign policy. As a practical matter, the military services had the responsibility

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for safeguarding classified military information under their control and jurisdiction. They had to assure that foreign disclosures were consonant with approved service plans and programs, including the Military Assistance Program. The National Security Act of 1947 created a Director of Central Intelligence and gave him statutory responsibility for the protection of intelligence sources and methods. As the principal intelligence officer of the United States Government, his responsibility extended beyond the intelligence collected and produced by the Central Intelligence Agency. Thus, classified military information now became "intelligence" falling under the purview of the Director of Central Intelligence when released to foreign governments, whose substance, the sources of its origination and the methods of its creation had to be taken into account before being disclosed. The uniqueness of the DCI is that he is the first and only Government official specifically charged by statute to protect intelligence sources and methods. Further, by virtue of his primary responsibility for liaison with foreign intelligence and security services and for the release of United States intelligence to foreign governments, the DCI became the source for the best available information on the security situation in a foreign country, which information could be weighed in making the determination to disclose classified military information to a particular foreign country. Since the Committee felt it to be unsound to presume that significant developments abroad would reach all levels of the Executive Branch through interagency or departmental channels of itself, the DCI was given an "observer" status on the S-DMICC in 1949.

12. Several problem areas came into existence as a result of the National Security Act of 1947. The first was a potential area of conflict between the USIB (DCI's) responsibility for the release of national or interdepartmental intelligence (which often contains military intelligence) and the S-DMICC's responsibility for the release of classified military information, including military intelligence. It was uniquely resolved in 1958. The initial step toward compromise at the time was the approval by the Intelligence Advisory Committee (the predecessor of the USIB) of a statement on the "Criteria and Conditions Governing the Release of Intelligence to Foreign Governments by the IAC" which was modeled on and consistent with the criteria set out in the current Basic Policy Governing the Disclosure of Classified Military Information to Foreign Governments (MIC-206/29). This was followed by memoranda from the Secretaries of State and Defense to the DCI dated 11 and 17 June 1958 respectively, in which each stated, "Taking cognizance of NSCID-1 and the criteria agreed to by the IAC . . . it is understood that the authority of the Secretaries of State and Defense to exercise control of

the release of classified military information under the Basic Policy Governing the Disclosure of Classified Military Information to Foreign Governments will not (sic) be applied to national intelligence and interdepartmental intelligence produced within the IAC structure which may contain military intelligence." NSCID-1, paragraph 4.d., states "The Director of Central Intelligence...is further authorized to disseminate national intelligence and interdepartmental intelligence produced within the..." IAC (now USIB) "...structure on a strictly controlled basis to foreign governments and international bodies upon his determination with the concurrence of the..." IAC (now USIB) "...that such action would promote the security of the United States...."

13. A second problem area was centered in the definition given in the Basic Policy Governing the Disclosure of Classified Military Information to Foreign Governments (MIC 206/29) to "Military Information," namely, "information under the control and jurisdiction of the Department of Defense, its departments or agencies, or of primary interest to them...." CIA, as a service of common concern, collects military intelligence information in response to requirements of the Department of Defense. Although a basic consistency exists between DCID 1/7 and MIC 206/29 governing the release of this military information to foreign governments in that the prior permission of the originating agency must be obtained before release, a conflict arises over the exceptions of a continuing nature to the basic release policy exercised by the S-DMICC. While MIC 206/29 authorizes the SD-MICC to grant exceptions of a continuing nature which exceed the classification categories it has established or are not included in the definitions of functional categories it has defined, the CIA contended that the S-DMICC does not have authority to grant continuing exceptions to the provisions of DCID 1/7, which can only be made by the DCI and the IAC (now USIB). This issue arose explicitly in December 1965, when COMUSMACV requested authorization to release certain military intelligence information on a continuing basis to Free World Assistance Forces, Vietnam. CIA regularly collected a considerable volume of the type of intelligence which COMUSMACV wished to release. In this particular instance, the matter was resolved by parallel action. The US-MICC (formerly SD-MICC until 1964) granted a "continuing exception" to MIC 206/29 and the DCI and USIB authorized an exception to the provision of DCID 1/7.

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✓ 14. A third problem area was that of the relationship of the CIA to the S-DMICC. The "observer" status of the CIA was challenged in the recommendations attached to a survey of the S-DMICC prepared in 1959 for the National Security Council by the NSC Representative on Internal Security, Mr. J. Patrick Coyne. He recommended that the regular membership of the S-DMICC be limited to State, Defense, Army, Navy, Air Force and the AEC. Participation of other agencies, including CIA, at committee meetings was to be limited to the relatively few instances when matters involving their interest were considered by the Committee. The NSC, however, by Action Number 2125, signed by the President on 10 September 1959, instructed that there was to be "voting representation by the....Central Intelligence Agency on items of direct concern to them (sic) under consideration by the State-Defense Military Information Control Committee or on unresolved issues of direct concern to them (sic) referred by the S-DMICC to higher authority..." and that the Departments of State and Defense, consulting as appropriate with other agencies, including AEC and CIA, were to prepare a current, comprehensive, self-contained statement of policy on the disclosure of classified military information to foreign governments and international organizations.

✓ 15. A fourth problem area has been the DCI's concern that the existing system for releases was not closely linked to U. S. foreign policy and security objectives, that the criteria governing releases were not adequate, and that there was no effective means of keeping trace of what actually has been released. As a result, in a time-frame extending from March to June 1973, the DCI, as Chairman of the USIB, tasked the Intelligence Community Staff (ICS) with surveying the release of foreign intelligence to foreign governments and international organizations for the purpose of assuring him that he can know what is being released, that the system for release is flexible enough to be responsive to current shifts in U. S. policy, that exchanges are made on a quid pro quo basis, and that no continuing obligations are assumed. The survey indicated that: (1) existing arrangements for accomplishing releases are complex and to a considerable degree decentralized; (2) the DCI's authorities are quite limited with respect to departmental collateral intelligence since NSCID-1 limits him, with the advice of the USIB, to the responsibility for the development of policies and procedures for the protection of intelligence sources and methods from unauthorized disclosure; (3) no system currently exists to

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provide a complete picture of the U. S. Intelligence that is being released; and, (4) the degree to which disclosures synchronize with U. S. policy depends on the sensitivity with which intelligence organizations and individual releasing officers are able to discern unannounced changes in policy.

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16. Existing authorities to determine policy and procedures for the release of intelligence to foreign governments and international organizations are widely divided: (1) authority with respect to national intelligence and interdepartmental intelligence is vested in the DCI, with the advice of the USIB (NSCID-1); (2) authority with respect to classified departmental military information (non-codeword through Top Secret) is vested in the Secretaries of State and Defense (NSDM-119, 20 July 1971); (3) authority with respect to departmental political, economic and sociological intelligence is vested in the producing departments; (4) authority for departmental intelligence, including military intelligence, which is acquired by CIA under NSCID-4 or NSCID-5 or is produced by CIA under NSCID-3 is vested in CIA; (5) authority with respect to intelligence, derived from TKH material is vested in the DCI (Presidential Directive and NSC Action 2454); (6) authority with respect to intelligence, including military intelligence, derived from SIGINT is vested in the DCI (NSCID-6); and, (7) collateral intelligence (classified non-military defense information) is released by State and CIA on the basis of Presidential Directive of 23 September 1958, "Basic Policy Governing the Release of Classified Defense Information to Foreign Governments" (NSDM-119 supersedes only the provision pertaining to classified military information).

17. The survey identified several problem areas in connection with the release of U. S. intelligence to foreign intelligence organizations and their governments. The first is the quid pro quo issue. While the key criticism governing the release of intelligence to foreign governments and international organizations is the net advantage to the United States, there is no objective way in which such advantage can be measured or assessed. Frequently, the release is only indirectly related to an identifiable return. To have meaning, net advantage has to be broadly interpreted as applying to the spectrum of interests of the United States and not merely to a reciprocal exchange of specific intelligence information. This, however, puts a premium on the judgment of individual officers who arrange the releases. Hopefully, errors in judgment in minor matters are corrected by the present system

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for senior level consideration of important matters and the issuance of appropriate specific guidelines. Second, is the role of formal, continuing intelligence exchange agreements between the United States and foreign governments and their agencies. Through these agreements, the United States has assumed something of a collateral obligation whose ramifications go beyond purely intelligence interests. Substituting a concept of no continuing obligations would cause concern abroad that the United States was making a basic shift in its relationships with other parts of the world. Third, is the inter-organizational differences in release criteria. While basic criteria for the release of U. S. intelligence are the same throughout the Intelligence Community since they are based on the President's Directive of 23 September 1958 and NSDM-119 of 20 July 1971 and the criteria for the release of TKH and SIGINT are controlled by the DCI, practices of releasing departments and agencies still do vary. The Defense Department under NDP-1/5 with its chart setting out the maximum classification levels within each category of classified military information which may be released to individual foreign governments and international organizations tends to be more restrictive in application than the CIA. In the CIA, net advantage to the U. S., as the driving criterion guiding Chiefs of Station in their releases, tends toward a more liberal release activity. Finally, there is the problem of interface with U. S. foreign policy and security interests. In theory, there should be no question concerning the proper interface between U. S. intelligence disclosures to foreign governments and current U. S. foreign policy and security interests because the final release authorities are vested in officials of sufficient stature to assess the inter-relationships. For example, the DCI for SIGINT, TKH, national intelligence and CIA produced departmental intelligence, and the Secretary of Defense for military departmental intelligence. In practice, however, the outgoing flow of intelligence is in the hands of officials far below policy levels and frequently geographically removed from Washington. Senior levels normally become involved only when a problem area is brought to the attention of the USIB or a request for an exception to policy involving military information is put before the NDPC. Problems can arise in situations where the fine tuning of U. S. policy is hindered by the inadvertant release or non-release of classified defense information.

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18. The outgoing flow of classified military information has been automated by the Department of Defense. The Foreign Disclosure Automated Data (FORDAD) System was formally implemented 1 April 1972. This system collects, stores, and retrieves the disclosure decisions of the various DOD disclosure elements throughout the world. This ADP support, under the responsibility of the Department of the Army, was converted to operate on its Worldwide Command and Control Computer located in the Pentagon on 10 September 1973. DOD instructions for the use of FORDAD places responsibility for reporting on those who hold disclosure authority in the various worldwide commands and offices of the DOD. This reporting covers documentary disclosures, visits to DOD facilities by foreign representatives, the accreditation of foreign representatives and oral and visual disclosures.

19. As indicated above, disclosing classified United States military information to foreign governments and international organizations is based on National Security Decision Memorandum 119 issued 20 July 1971. It defines classified military information, in part, as information under the control or jurisdiction of the Department of Defense, its departments or agencies, or is of primary interest to them. It sets out general policy objectives which are: (1) to treat classified military information as a national security asset which must be conserved and protected and which may be disclosed to foreign governments and international organizations only where there is a clearly defined advantage to the United States. (2) Such disclosures must be consistent with United States foreign policy objectives and military security requirements, and limited to information necessary to the purpose of the disclosure. (3) Disclosures will be contingent upon a determination that the recipient of the information will afford it substantially the same degree of security protection given to it by the United States. This requirement may be set aside in exceptional cases authorized jointly by the Secretaries of State and Defense, or by their representatives specifically designated for this purpose, upon a finding that the advantage resulting to the United States from the proposed disclosure may be expected to outweigh the risk of the compromise of U. S. military secrets. Instances of such exceptions will be centrally recorded and included in annual reports to the National Security Council concerning the implementation of NSDM 119. The Secretaries of State and Defense, consulting as appropriate with the Chairman of the Atomic Energy Commission, the Director of Central Intelligence and the heads

of other departments and agencies, are assigned the responsibility for controlling the release of U. S. classified military information. Nothing in NSDM 119 is to be construed as being contrary to, among other things, disclosure authority vested in the United States Intelligence Board structure; nor shall anything contained in NSDM 119 affect or modify authority or responsibility vested in, among other persons, the Director of Central Intelligence pursuant to Federal Law, National Security Council Intelligence Directives, Executive Orders or other Presidential authorizations, to make specific determinations concerning disclosures of classified U. S. military information to foreign recipients. NSDM 119 does not preclude the continuation of the State-Defense agreement that a representative of the Secretary of Defense provide executive direction and chairmanship of the NDPC.

20. NSDM 119 specifies that the responsibility assigned to the Secretaries of State and Defense for controlling the releases of classified U. S. classified military information includes: (1) the establishment and management of such inter-agency mechanism and procedures as are required for the effective implementation of NSDM 119; (2) the promulgation of specific disclosure criteria and limitations, definitions of terms, release arrangements and other guidance required by U. S. departments and agencies having occasion to release classified U. S. military information to foreign recipients; (3) the continuing review of pertinent intelligence information, and the conduct of periodic on-site surveys to determine the capability of particular foreign governments to provide to classified U. S. military information the requisite degree of security protection; and (4) the submission to the National Security Council of an annual report covering the highlights of the program. This annual report to the NSC is to include: (1) an assessment of the effectiveness of the program in meeting the general policy objectives and implementing responsibilities as set forth in NSDM 119; (2) information concerning any security compromises or other noteworthy problems encountered, and remedial action taken; and, (3) the circumstances of any exceptional instances wherein disclosures of classified military information were made to foreign recipients not known to possess the capability to afford the information protection substantially equal to that provided it by the United States.

21. The current U. S. National Disclosure Policy was issued by the Secretary of Defense after approval by the Secretary of State and concurrences from the Chairman, AEC

and the DCI. It became effective 1 January 1970. Entitled "National Policy and Procedures for the Disclosure of Classified Military Information to Foreign Governments and International Organizations," (Short title: National Disclosure Policy, NDP-1), it has undergone five minor textual revisions as the result of annual reviews by the Committee. The current revision, NDP-1/5, was issued 25 November 1974.

22. The purpose of NDP-1/5 is to promulgate national policy and procedures in the form of specific disclosure criteria and limitations, definition of terms, release arrangements and other guidance required by U. S. departments and agencies having occasion to release classified U. S. military information to foreign governments and international organizations. It also establishes and provides for the management of an interagency mechanism and procedures which are required for the effective implementation of the policy. All departments and agencies of the Executive Branch of Government are subject to this policy. Classified military information is defined as information under the control or jurisdiction of the Department of Defense, its departments or agencies or of primary interest to them which requires protection in the interests of national security as described in Executive Order 11552. Nothing in this policy is to be construed as, among other things affecting or modifying: (1) the responsibility vested in the DCI under the National Security Act of 1947, as amended, or Section 6 of the CIA Act of 1949, as amended, for protecting intelligence sources and methods from unauthorized disclosure; or (2) any authority vested in among others, the DCI where permitted or required by law, Executive Order, or other Presidential authorization to make specified determinations concerning disclosures of classified military information to foreign recipients. NDP-1/5 does not apply to the disclosure of National Intelligence or inter-departmental intelligence produced within the USIB structure. Such intelligence cannot be disclosed without the authorization of the DCI, concurred in by the USIB. NDP-1/5 also does not apply to the disclosure of counterintelligence activity devoted to destroying the effectiveness of inimical foreign intelligence activities, which is governed by NSCID No. 5.

23. NDP-1/5 guidelines to be applied to disclosure programs cover both criteria and conditions. All of the following criteria must be satisfied:

- a. Disclosure is consistent with the foreign policy of the U. S. toward the recipient nation or international organization.

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- b. The military security of the U. S. permits disclosure.
- c. The foreign recipient of the information will afford it substantially the same degree of security protection given to it by the U. S.
- d. Disclosure will result in benefits to the U. S. at least equivalent to the value of the information disclosed.
- e. The disclosure is limited to information necessary to the purpose for which disclosure is made.
- f. If military intelligence is involved, disclosures on activities of certain Communist governments should develop on the part of the recipients an appreciation of the capabilities, intentions or probable courses of action of aggressors or potential aggressors. Disclosures of military intelligence on activities of non-Communist governments associated with the U. S. in alliances or mutual defense agreements or certain alliance organizations where a specific determination has been made in each case that such a disclosure will result in significant benefit to U. S. objectives. Where governments are not so associated with the U. S. compelling circumstances must exist and prior approval obtained via NDPC exception procedures before a disclosure is made.

In addition to the above criteria, the following conditions must prevail:

- a. All departments and agencies of the Executive Branch will have issued detailed implementing directives and instructions implementing the National Disclosure Policy.
- b. Before a proposed disclosure program involving classified military information is initiated, an on-site security survey of the recipient's ability to afford the disclosed information the same degree of protection given to it by the U. S. will have been made.

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- c. Assurances should be received from the recipient that the disclosed information will not be revealed to a third party; that it will be given the same degree of security protection as given to it by the U. S.; that it will be used only for the purposes specified; that known or suspected compromises will be promptly reported to the U. S. Government; and, that specified original recipients of the disclosed information have received appropriate security clearances from their own government. These assurances are covered in bilateral General Security Information Agreements.
- d. If the highest classification of the disclosure program exceeds the maximum permissible classification levels established for each country by the NDPC, the disclosure program will either be denied or an exception to disclosure policy will be obtained from the NDPC.
- e. All disclosure actions of classified military information, approvals or denials, will be reported to the NDPC.

24. When the National Disclosure Policy was being re-drafted as NDP-1, one of the issues under consideration was the Agency's membership on the Committee. As indicated above, the DCI was given an observer status on the S-DMICC in 1949. A Presidential Directive of 14 September 1959 (NSC Action 2125b, 10 September 1959) gave the DCI a vote on matters of direct concern to him without specifically addressing the issue of membership. However, in MIC 206/29-64, the "United States National Disclosure Policy" issued by the Secretary of State, 1 August 1964 after his having received the written approval of the Deputy Director of the Central Intelligence Agency, among others, for the purpose of setting out "a single, up-to-date, comprehensive, self-contained statement of policy on the disclosure of classified military information to foreign governments and international organizations in accordance with the Presidential instruction of 10 September 1959 (NSC Action 2125 b) "it was stipulated that among the regular voting members of the US - MICC was a representative of the Director of Central Intelligence. This membership was carried forward into NDP-1, "National Policy and Procedures for the Disclosure of Classified Military Information to Foreign Governments and International Organizations," issued by the Secretary of State 7 October 1966 with the concurrence of the DCI under which the NDPC was

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✓ established. The first draft of a revised National Disclosure Policy dated 30 January 1969 prepared by the State Department intentionally dropped the DCI from NDPC membership in an effort to cut down on bureaucracy since the bulk of the disclosures of classified military information pertained only to the DOD.

25. The DCI strongly demurred and opted for continued general membership on the following grounds:

a. The high degree of responsibility and authority of the DCI in the U.S. Intelligence Community and on national security matters (his responsibility to the NSC and the President) warrants his having a full status to enable him to have a proper voice in disclosure policy without having to apply to be heard nor having to explain just how a disclosure matter is of direct interest to him.

b. In a sense, even classified U.S. military information is intelligence when released to foreign governments falling under the DCI's responsibility to protect it and the sources and methods by which it was developed from unauthorized disclosure.

c. By virtue of his primary responsibility for liaison with foreign intelligence and security services and for the release of U.S. intelligence to foreign governments, the DCI usually has the best available information on the security situation in foreign countries which should be applied in the processing of U.S. military information for possible disclosure to foreign governments. It cannot be presumed that significant developments in the security situation in a foreign country would reach all NDPC members through other Agency or departmental channels.

d. NSC Action No. 2125b, 10 September 1959 directed the Secretaries of State and Defense to prepare National Disclosure Policy and procedures in consultation with the DCI and the Atomic Energy Commission. The DCI should

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have this status in the formulation of national disclosure policy and any change in this status should include advice to the NSC with a request for its views.

e. The DCI had full policy board voting status since 1 August 1964, which did not impede or inhibit normal S-DMICC or NDPC activity.

26. Since both MIC 206/29-64 and NDPC-1 exceeded the language of NSC Action No. 2125b in giving the DCI full membership on the Committee where he was only given a vote on matters of direct concern to him, the Categories of General and Special Membership were established under NDP-1 with General Members having a broad interest in all aspects of Committee operations; and Special Members having a significant interest in some, but not all, aspects of Committee operations. Special Members may notify the Chairman of their direct concern on each matter brought before the NDPC. Committee actions represent the unanimous agreement among General Members and Special Members having a direct concern. When unanimity on a matter fails, the Chairman can propose an NDPC position which can be appealed to the Assistant Secretary of Defense/International Security Affairs (ASD/ISA). Further appeal from the decision of the ASD/ISA can be made to the Secretary of Defense by the head of the department or agency directly concerned. Under NDP-1/5 General Members are: the Secretaries of State, Defense, Army, Navy, Air Force and the Joint Chiefs of Staff; Special Members are: Chairman, AEC; DCI; Director, Defense Research and Engineering; Assistant Secretary of Defense (Comptroller); Assistant to the Secretary of Defense (Atomic Energy); and, the Director, Defense Intelligence Agency. In a memorandum for the ASD/ISA dated 30 September 1969, the DCI stated "I have accepted Special Membership rather than full membership on the basis that my representatives will be kept informed on all matters brought before the NDPC and will receive all issuances." The DCI's membership is in his capacity as Chief, Intelligence Officer of the U.S. rather than as head of the Central Intelligence Agency.

27. As a Special Member with significant interest in matters of direct concern, the DCI has the following role on the NDPC:

a. He concurred in the formulation of NDP-1 and concurs in all of its subsequent changes.

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- b. He is responsible for implementing NDP-1/5 within the Central Intelligence Agency.
- c. He may disclose classified military information under the terms of the NDP guidance if an originator of classified military intelligence.
- d. As a Special Member with significant interest in some, but not all aspects of committee operations, he will provide representation at NDPC meetings as required.
- e. As a Special Member, he must notify the Chairman, NDPC when actions before the Committee are of direct concern, since the Chairman must establish unanimous agreement among General Members and those Special Members indicating direct concern before Committee actions become final.
- f. He responds to requests for consultation from the ASD/ISA on appeals from the Chairman NDPC's proposed position on matters before the Committee lacking unanimous agreement among NDPC members if the action is of concern to him as a Special Member.
- g. He may appeal decisions of the ASD/ISA to the Secretary of Defense on matters of direct concern to him.
- h. He is to issue detailed directives and instructions which assure that disclosure decisions are made promptly and disclosure activities are carried out effectively.
- i. The Annual Report to the NSC prepared by the Executive Director, NDPC will include his concurrence.
- j. He will report to the NDPC all classified military information disclosure actions (positive or negative) undertaken by CIA under the provisions of NDP-1/5 in line with the procedures established for the Foreign Disclosure Automated Data (FORDAD) System.

k. He will provide qualified personnel to serve on NDPC security survey teams when requested by the Committee's Chairman. ✓

1. He will, as requested by the NDPC Chairman, provide appropriate briefings to the NDPC security survey teams before their departure on the countries and international organizations of team concern. ✓

28. In practice, the NDPC under NDP-1 conducts the greater part of its business by correspondence or telephone. Detailed operating procedures for the NDPC were established as a Record of Action, currently RA-001.4/70 dated 17 October 1974, a revision of the original issuance. Proposals to the NDPC for policy review and definition, exceptions to policy, or denial authority are to be submitted directly by General and Special members to the Executive Director, NDPC, with simultaneous copies to all members. The Executive Director, with the concurrence of the Chairman, may also initiate items to be considered by members. Direct contact between members is authorized and encouraged. The routine business of the Committee may be handled without formal meetings, through coordination with appropriate members to obtain the necessary concurrences with a written report issued to Committee members. Unresolved routine cases, policy questions, and other matters requiring formal NDPC consideration may be resolved by the Chairman or correspondence with members or may be held for NDPC meetings routinely scheduled for 0930 hours, the third Thursday of each month. Requests for an exception to NDP are submitted in writing to members who can indicate their concurrence or "no functional interest" in the case of Special members on a preprinted form. Concurrences with comment or non-concurrences are to be furnished by a separate memorandum to the Chairman, NDPC. A review of the Calendar Years 1970 through 1974 indicates a high frequency of meetings during the early years when the Department of Defense was feeling its way with the new responsibility for running NDPC activities. In CY 1970 there were only three cancelled meetings, June, August, and September, with continuation meetings held in October and November. In CY 1971 regularly scheduled meetings were held in January, April, June and September with a continuation meeting in September. Meetings were held in January, March, August, September and November with a September continuation meeting for CY 1972. There were only four meetings in CY 1973, January, April, September and December with a continuation meeting in September. Finally in CY 1974 there were regular meetings in September and October with a continuation

meeting in each of these months and a Special meeting in April. In terms of exceptions to National Disclosure Policy, there were 50 exceptions handled in CY 1970, 68 in CY 1971, 84 in CY 1972, 93 in CY 1973, and 58 in CY 1974. These requests for exception were initiated through correspondence and, for the most part, disposed of in this manner. Of the 354 requests for exception over these five Calendar Years, six were related to military intelligence disclosures of direct concern to the DCI. Similarly, 43 of these requests were approved by the Secretary or Deputy Secretary of Defense with the NDPC being informed of the action taken after the fact so it could make these exceptions a matter of record. The Chairman requested the DCI member to present an intelligence briefing on Chile, which was accomplished 12 November 1970 by a briefing officer of the DDI.

29. Other problems of the NDPC which have direct interest to the DCI besides membership are the adequacy of representation on the NDPC and the Committee's security inspection function. Two in-depth studies of Committee activities were made in the spring of (1966) by the Departments of State and Defense. The Freund Report dated 13 April by State recommended that CIA and AEC appoint USMICC members and alternates from other than their security divisions, and, wherever possible from a high enough policy level to permit timely decision making. The Horowitz Report dated 11 May by Defense was more philosophical in its comments on the quality of Committee representation. It observed that since full-time Committee participation is not required either for the review of policy exception requests or for inspecting security systems of foreign governments, the knowledge and capability of individual Committee members is more important than the number of members on the Committee. The Horowitz Report further argued that intelligence oriented personnel should be selected for Committee membership as opposed to operational or technically oriented persons, since foreign disclosure activities are basically inherent to the field of intelligence. While operationally or technically oriented personnel are better to assess the impact of releasing classified operational or technical data on the U. S., they are not as well qualified to weigh the benefits to the U. S. equivalent to the information disclosed. For this reason, Committee members should have broad background and experience, be sufficiently knowledgeable concerning foreign policy, military and security objectives of the U. S. and be authorized within appropriate limits, to act for their department heads in National Disclosure Policy matters with easy direct access to the official responsible for disclosure matters. The level of representation was

again a matter of discussion in the NDPC Executive Committee established in January 1969 to revise NDPC-1. The crux of the problem of adequate representation was to find the level of officer for Committee membership to allow prompt policy decisions and parent organization commitments on the one hand and active Committee participation on the other. The experience of the Committee was that high level officers were nominal members who left participation in Committee activities to alternates who performed all the required routine functions. It was thought desirable to have the Committee consist of members who were actually involved in disclosure activities.

30. On 23 May 1966, shortly after the Freund Report was circulated, Deputy Undersecretary of State, U. Alexis Johnson, wrote to the DCI concerning his desire to "consult a CIA policy official" regarding a National Disclosure Policy working group. In his reply of 1 June 1966, the DCI, Admiral W. F. Raborn, designated Thomas A. Parrott "of my staff" as the Agency policy official to deal with State. When he met with Mr. Freund at State on 8 June 1966, it was suggested to Mr. Parrott that future members and alternates of the Committee should be provided from "policy" levels instead of "security" levels. Mr. Parrott responded that the DCI saw no difficulty in meeting the objectives of this recommendation; namely, to make it possible to obtain decisions speedily, by maintaining the DCI's representation from the Office of Security. Since the Office of Security is much more closely related to the principal business of the Agency, Mr. Parrott stated that this is where DCI representation should properly come from. If there were future problems in obtaining responses from the DCI, the DCI should be advised and either channels would be unclogged or changing the locus of representation would then be considered. The Deputy Chief, Policy Division, Office of Security, was then designated by Mr. Parrott to represent the DCI on the State-Defense Working Group and to succeed to Committee membership. All actions of the Working Group on reorganizing the USMICC in 1966 and in reorganizing the NDPC-1 in 1969 were coordinated with Mr. Parrott in his position as Assistant to the DCI for National Intelligence Program Evaluations (A/DCI/NIPE). Although the record does not indicate the date of origin, it became the practice in mid-1966 to also coordinate Committee activities with focal point officers in the Offices of the DDI and DDS&T and the C/FI/ [redacted] of the DDO. Prior to this time, coordination was effected with

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interested components within each Directorate, a time-consuming activity. Coordination with Directorate focal officers is a current practice. The position of A/DCI/NIPE disappeared with the creation of the Intelligence Community Staff. Since problems have not arisen under NDP-1 requiring coordination at the DCI policy level, a substitute avenue of coordination has not been established.

31. The Freund and Horowitz Reports also revealed problems needing solution with the Committee's security inspection function. The Freund report recommended separating the security survey function from normal responsibilities of the USMICC. This would include establishing a "stable" of security experts earmarked by DOD, AEC, and CIA. The Freund report felt that security surveys needed to be better planned, staffed, conducted and acted on promptly by the U. S., which should inform both host governments and all interested U. S. officials in Washington and the field of the results of the survey. The Horowitz report queried whether the practice of the Committee to appoint survey teams composed of Committee members or alternate members did not in effect create a "judge and jury" situation. Since the inspection function was not being kept separate from the policy function, there was no assurance that fully objective inspections were being made.

32. NDP-1/5 is worded in a way to allow latitude on the matter of security surveys. In size and composition of survey teams, they will be limited to the minimum number essential to conduct an effective security survey as is determined by the NDPC on the basis of the requirement for each survey. Qualified personnel will be provided, normally by departments and agencies represented on the NDPC, to serve on teams as required. Team members should be knowledgeable of basic security practices involving clearance and investigative aspects of personnel security; all aspects of document and information control; and physical security in industrial, military and civil organizations receiving U. S. classified military information. Team members should also be knowledgeable of the status of on-going programs with foreign governments or international organizations being surveyed. All members of the team and their respective departments and agencies should participate actively in the planning process to assure that the instructions issued to the team by the Chairman fully cover all facets of the visit. When departments

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and agencies do not send representatives as team members, they will be afforded the opportunity to brief the team on their on-going disclosure programs with foreign governments or international organizations.

33. Under NDP-1/5, the Committee uses the following criteria as a basis for determining which countries or international organizations are to be given on-site security surveys. An initial NDPC security survey is normally required before beginning a program or disclosing classified military information and equipment to a foreign government or international organization. In all surveys, the U. S. Country Team on site and the host government concur in the conduct of the survey. Subsequent security surveys are made after the following considerations are weighed: (a) a review of past security surveys, Embassy security assessment reports and any bilateral General Security of Information Agreements indicate that their current applicability or validity as a basis for continued NDPC disclosure or denial actions is in doubt; (b) a review of classified military information and equipment disclosures since the last security survey indicates an increase in the volume of disclosures or the technological content of on-going disclosure programs; (c) a review of U. S. intelligence and Embassy reports indicates a weakening of the security procedures or practices of a foreign country or international organization in protecting U. S. classified military information and equipment; (d) the current relationship between the U. S. and concerned foreign country or international organizations has considerably changed; and (e) the views of the American Embassy regarding the appropriateness of an NDPC security survey of its host country or international organization favor such action.

34. To Annex A, NDP-1/5 is appended a chart setting out the maximum classification levels of classified military information which may be released to individual foreign governments and international organizations. The chart is a reflection of U. S. National Disclosure Policy. Entries made in the chart are comparable to a security clearance, coupled with a first estimation of the foreign entitles "need-to-know." The factors determining "need-to-know" are primarily U. S. foreign and military policy. The chart, of itself, does not authorize disclosures. The chart is reviewed annually by the Committee and updated. The current chart lists four international organizations and 121 foreign governments (40 African, 22 Western Europe/North Atlantic; 14 East Asia/Pacific; 24 Latin American/Caribbean; 21 Near East/South Asia). Since its inception as

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date for the next report covering CY 1974 will be 30 April 1975 and will cover the report years 1975 and 1976. It was further requested that this schedule indicate the countries and organizations to be surveyed, the type of survey, tentative dates, the last time a similar survey was conducted, and the reasons for conducting the survey.

36. The final question set out in paragraph 2 above still remains to be considered, namely, could Agency participation be more efficiently drawn from elsewhere in the Agency, say the DDO? [REDACTED]

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[REDACTED] is the implementation instrument for the President's directive of 23 September 1958, Basic Policy Governing the Release of Classified Defense Information to Foreign Governments. The relationship of the NDPC to this directive is discussed in paragraph five above. Under [REDACTED] the Deputy Director (Operations) is primarily responsible, on behalf of the DCI, for the conduct of liaison with foreign intelligence services and will therefore supervise the actual release of intelligence and intelligence information. The only exceptions are in those instances where the Deputy Director (Intelligence) is releasing DD/I produce intelligence and information to countries with which the DD/I maintains accredited liaison in Washington, and overseas through his representatives under the supervision of Chiefs of Station. Prior to the initiation of a new CIA liaison in which it is contemplated that classified defense information will be released, it is the responsibility of the DDO to determine the security and the reliability of the proposed original recipients. Before the security determination is made, the Deputy Director (Administration) will conduct the required security checks in the U. S. The DDO will conduct such security checks overseas. A copy of all security checks conducted by the DDA shall be furnished to the DDO. In addition, the DDA will furnish the DDO any derogatory information that may be received subsequent to the security determination. Since a security determination is continuing in nature until revoked or amended, the DDO is charged with the continuing review of any derogatory information which may be received after the security determination. Originally, the inspection function of the Inspection and Security Office undoubtedly provided the rationale for assigning responsibility for National Disclosure Policy matters

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to the Office of Security. It would seem, however, that [redacted] last revised 1 April 1961, now provides stronger justification for drawing DCI representation from the DDO. As indicated above, membership on the NDPC does not require participation in Committee security surveys. Should Agency participation be requested on an NDPC security survey team, it could still be drawn from the Office of Security. The Agency, under NDP-1/5, will normally provide NDPC survey teams appropriate country and international organization briefings. In the past these have been drawn from DDI or DDO resources. The area of direct Agency concern is the release of military intelligence. In the past, the contributions of the Agency have been supplied by DDO country desks who have the most current access to significant information from overseas stations. This coordination is currently being effected with the DDO through the Chief, FI/[redacted]. The Office of Security and the DDA have no substantive contribution to make to the general business of the Committee, but go outside the DDA in developing the agreed Agency position on any item of Committee business.

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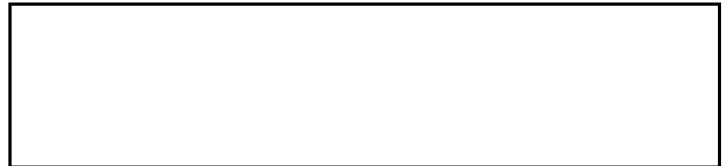
37. To sum up therefore, it does not appear that any conscious effort has been made toward passivity in the Agency's relationship toward the NDPC. It is true that the gold flow problem of the U. S. in 1967 led to an internal Agency decision to play down participation in NDPC team security surveys. This decision, however, has not been tested by the NDPC since it has not requested Agency participation since 1967. Internally, this decision may also be changed or reaffirmed by the new Director of Security and DCI who have come on the scene since 1967. Such a test may come soon as the NDPC implements the current request of the NSC to plan security surveys two years in advance of each annual report. Then again, since the NDPC is now chaired by the Department of Defense, the DOD may continue to find an adequate stable of security specialists from among its own departmental members to man survey teams as it has for the eleven surveys conducted since it took over the NDPC chairmanship in 1970. It would also appear that the continued drawing of DCI representation from the Office of Security perpetuates a longstanding bureaucratic anachronism. Representation from this quarter cannot provide the inherent expertise necessary to carrying out the business of the Committee. It has served mainly as a focal point for interface between the NDPC and the DCI and internal Agency components. It would be

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more realistic to draw the DCI's representation to the NDPC from the DDO. The DDO already has the responsibility for the Agency's implementation of the disclosure of nonclassified military defense information under the National Disclosure Policy covered by the President's Directive of 23 September 1958 as referenced in [redacted]. It would seem logical for him to also represent the DCI on the NDPC on disclosure matters of classified military information now covered by NSDM-119 of 20 July 1971. Moreover, the DDO has been furnishing the substantive expertise to the NDPC through the Office of Security. Both the DDI and DDS&T have been nonproductive albeit essential points of coordination within the Agency. The DDO country desks have been the more sensitive barometers of political change. They can and have provided the NDPC timely indicators of such change. To reassign the responsibility for providing DCI representation to the DDO would capstone the long and tortuous functional evolution of the NDPC in its relationship to the DCI.

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