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MEMORANDUM FOR THE DIRECTOR

Subject: TREATMENT OF SPECIAL FUNDS OVERSEAS

1. In a conference with the Executive for Personnel and Administration, the Chief, Finance Division, representatives of Special Funds and the General Counsel's Office, it was considered desirable to discuss certain basic problems concerning the treatment and handling of Special Funds overseas with proper officials of the General Accounting Office. Accordingly, a conference was held on the afternoon of 12 November in the Office of the General Counsel of the General Accounting Office, with Mr. Fisher, Assistant General Counsel, GAO; Mr. Johnson, Assistant Chief of the Audit Division, GAO; Mr. Echols, Chief, Special Funds; and Mr. Houston and Mr. Warner of the General Counsel's Office. The purpose was to discuss two basic problems detailed below. In each case the procedure or theory practiced by Special Funds is contrary to normal Government regulations, but in both cases it was felt by representatives of CIG that these practices and theories were necessary to operation and justifiable in view of the special circumstances and the controls exercised by Special Funds. It was felt that it would be inadvisable to request a written opinion from GAO or even a firm oral approval; the most it was planned to achieve was, by explaining what Special Funds proposed to do and how they proposed to do it, to put the office on record that it had kept the interested Government office informed, and so to forestall any criticism of bad faith or negligence in possible future investigations or special situations.

2. The first problem discussed concerned the practice of considering foreign currencies purchased by Special Funds as "commodities" to the same extent as other property used for operational purposes. It was explained that these foreign currencies are obtained in various and often devious manners, and, that while full accountability is kept of the eventual expenditure of the foreign currencies, for practical purposes it is desirable to consider the American dollars used in the

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purchase as expended. This permits stock-piling of required foreign currencies in all parts of the world against projected operations. Such stock-piling is necessary to service world wide secret intelligence operations, the successful performance of which requires long range planning and preparation. In ordinary exchange transactions, the foreign currencies would be "money" as much as the dollars with which they are bought, but once purchased and committed to future clandestine operations, they lose their exchangeability and become, in effect, commodities which are carried over for expenditure beyond the end of the fiscal year as are other commodities, and not credited back to the old appropriation and charged to the new, as dollars would be. Admittedly this in effect supplements the appropriation. However, it was the contention of representatives of CIG that this is not objectionable if good faith is maintained, i.e., just so long as the amounts stock-piled for the successive fiscal year are for the direct support of continuing or definitely foreseeable needs. Mr. Fisher stated that, while he had not given the matter much thought, he would have assumed that CIG would have to stock-pile currencies for its confidential operations, as it was obviously a necessary move. He concurred that the question of bad faith was the important point, stating that if CIG put in reports of a million dollars a month for purchase of foreign currencies throughout the year and then in June, at the end of the fiscal year, reported ten million, they would immediately question the last report on the grounds of bad faith. Mr. Houston, referring to Mr. Echols for confirmation, assured Mr. Fisher that CIG would so maintain its foreign exchange activities that it could at all times show that the currencies purchased were for reasonably foreseeable expenses of projected operations. It was Mr. Fisher's informal opinion that such a showing would be satisfactory in case of general investigation, or complaint on individual items, and that within such bounds of good faith it would be proper to consider as expended all dollars exchanged for foreign currencies.

3. In connection with this discussion, a specific case was discussed concerning an exception taken by the Accounts Division of GAO to a report of miscellaneous receipts made some months previously. In brief, the situation arose because Special Funds had made actual payment in the local currency in China of certain vouchered obligations. The transactions were reported

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back on proper vouchers, and Special Funds was reimbursed here by vouchered funds in dollars. This amounted to a reconversion of the local currency into dollars by Special Funds. Here there was in effect a mere exchange transaction on the part of Special Funds; dollars converted to foreign currency with the intent to receive dollars again for this currency. In such an exchange transaction, any profits realized would be in fact an improper supplement to the appropriation. Under normal circumstances any such profit would be covered into the Treasury as a miscellaneous receipt. Due to the various and often complicated means by which the foreign currency in question was procured, it was found to be, as a practical matter, impossible to set a cost value on the currencies with any degree of accuracy, and it was consequently equally impossible to estimate accurately the amount of the profit involved. In order to avoid possibility of an improper supplement to the appropriation, it was decided that the full amount of the dollars reimbursed to Special Funds, which was in effect a reconversion, should be covered back into the Treasury. This was done, and profits plus cost were turned in as miscellaneous receipts. At the time the first report was made, the fact and amount of currency commodity assets in China were considered most confidential. Consequently, the report to the Treasury of miscellaneous receipts was made without detail other than the statement that it was the proceeds of a sale of a commodity. The Audit Division of GAO took an exception to the report, requesting further information.

4. This situation was outlined to Mr. Fisher and Mr. Johnson. They expressed surprise that the report had been made at all, inasmuch as had the money refunded been spent for confidential purposes they would never have been aware of the transaction. It was pointed out that there was always the possibility of an investigation of the handling of unvouchered funds, in which event SIG wished to be in a position to show that, insofar as it was operationally possible, no difference was made in the use of vouchered and unvouchered funds. Inasmuch as vouchered funds would report profit on exchange transactions, unvouchered should do likewise, in order to forestall any claim that the appropriation had been supplemented in an improper and unjustified manner. Mr. Fisher thought that perhaps Special Funds had leaned over backwards in this matter but certainly saw nothing objectionable from the GAO point of view, and Mr. Johnson stated that if we would make a very brief written explanation directly to him with reference to this conversation, he could arrange to take care of the exception.

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Mr. Fisher expressed surprise that this matter had been considered so confidential in view of the fact, as stated above, that he had automatically assumed an intelligence agency would have stock-piles of foreign currencies. It was explained that it was not the existence, but it was the amounts, whereabouts and uses to which put that might be exposed in any voucher explaining such a transaction. It was agreed, however, that on past transactions the security problem was reduced to the extent that CIG would be able to satisfy Mr. Johnson on any specific cases that arose.

5. The second basic problem discussed had to do with the treatment of dollar advances sent overseas either for expenditure as dollars or for later conversion into foreign currency. These dollar advances would be made by any of three agent-cashiers in this country to disbursing officers of missions or to individuals overseas. Each agent-cashier is bonded in the amount of \$200,000, and can requisition funds from the Treasury only to the extent of his bond. When the agent-cashier sends dollars overseas, in strict theory he is making advances to be accounted for later. If they are treated merely as advances, he may not request reimbursement from the Treasury until he has completed the accountings, unless the Treasury were willing to allow each agent-cashier to carry huge outstanding advances far in excess of his bond. It was stated to Mr. Fisher and Mr. Johnson that the desirable procedure would be to treat overseas dollar advances, for the purpose of replenishment to agent-cashiers only, as actual expenditures. Thus, if one agent-cashier had forwarded his full \$200,000, he would submit a voucher for the Director's signature that the funds involved had been properly expended for confidential purposes. This voucher would be acceptable to Mr. Brennan of the Treasury as an accounting, and he would thereupon advance further funds to the agent-cashier to the full extent of his \$200,000 bond. It was made quite clear that, in spite of this practice for replenishment purposes, complete accountability records are maintained at all times on these dollar advances, so that the agency records eventually produce the same information as if the dollar transfers were in all respects treated as advances.

6. It was further pointed out that records were maintained which would indicate at the end of the fiscal year

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the amount of outstanding dollar advances overseas, and this amount would be credited back to the old appropriation and charged to the new, so that there would in no way be a supplementation of any year's appropriation. It was felt that this year-end adjustment obviated any claim of bad faith. Mr. Fisher asked how this reimbursement of agent-cashiers had been handled in the past. It was stated that the procedure outlined above had, in fact, been used. In view of this, Mr. Fisher said he would advise that SIG continue to use this practice until such time as GAO, for one reason or another, might request that the practice cease; he turned to Mr. Johnson, who said that that would be his advice also. He did not state that GAO would, of its own volition, request SIG to change its practice in this matter, but said it was always possible that investigation or some special incident might compel them to require different handling. It was pointed out by the SIG representatives that the proposed practice created a technical inaccuracy, as the Director would be certifying to the expenditure of funds which, in strict theory, were only advanced. However, these advances were made not as general advances, but were for expenditure on specific projects approved in advance, and if not so expended, were brought back in the appropriation. Mr. Fisher said that if such vouchers were acceptable to Mr. Brennan, his advice was to continue the practice as one necessary to carrying on operations.

7. It is felt that the discussion of the two problems, as outlined above, served the desired purpose. SIG obtained the benefit of the advice from those officials best qualified to pass on such questions. No official ruling or opinion was obtained, and the attitude of Mr. Johnson and Mr. Fisher, while extremely friendly, showed that official rulings might well be adverse to the needs of SIG. Although the discussion was unofficial and off the record, it is felt that a frank discussion of such fundamental problems with the General Accounting Office indicated the good faith of those in charge of confidential funds, and thus not only forestalled possible future criticism but also aided the already friendly relationships with the General Accounting Office. In this connection, Mr. Fisher said he was sure further efforts would be made to investigate past intelligence confidential expendi-

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tures, but implied that the pressure would come from Congress and not his office. He stated, as was well known, that Mr. Warren, the Comptroller General, was opposed to the use of confidential funds and they would be increasingly hard to obtain. The CIG representatives stated that in case GAO had any specific inquiry it was felt that satisfaction could be given without impairing the security of the confidential expenditures, and that if Mr. Warren or his designee wished, CIG would be glad to discuss its system of regulations and controls over the expenditure and accounting of unvouchered funds.

LAWRENCE R. HOUSTON
General Counsel

CONCURRED IN BY:

Chief, Special Funds

Assistant General Counsel

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