

FACT SHEET

SUBJECT: National Disclosure Policy

The policy of the United States Government is to treat classified military information as a national security asset that must be conserved and protected and that may be disclosed to foreign governments and international organizations only when there is a clearly defined advantage to the United States. Such disclosures must be consistent with US foreign policy objectives and military security requirements, and be confined to information necessary to the purpose of the disclosure. No foreign government is entitled to receive US classified military information or materiel. However, in recognition that it may be in our national interests to share such information and materiel with our NATO allies and other friendly nations, the National Security Council with the approval of the President, has established a national policy governing the disclosure of classified military information to foreign governments and international organizations.

The basic authority governing the disclosure of US classified military information is set forth in a National Security Decision Memorandum (NSDM) approved by the President. That document assigns responsibility for control of the disclosure of US classified military information (CMI) jointly to the Secretaries of State and Defense and they may consult, as appropriate, with the Secretary of Energy, the Director of Central Intelligence, and heads of other departments and agencies. Further, the NSDM charges the Secretaries with the responsibility for:

- The establishment of an interagency mechanism and procedures to implement the disclosure policy.
- The promulgation of specific disclosure criteria and limitations.
- The submission of an annual report on disclosure activities to the National Security Council, and
- The review of available information, the conduct of on-site security surveys, and the negotiation of General Security of Military Information Agreements (GSOMIAs) to determine a foreign recipient's capability and intent to protect US classified military information.

The interagency document which implements the NSDM is entitled National Policy and Procedures for the Disclosure of Classified Military Information to Foreign Governments and International Organizations (Short Title: National Disclosure Policy or NDP-1). It is issued by the Secretary of Defense with the concurrence of the Secretaries of State and Energy and the Director of Central Intelligence.

#371

The basic policy does not pertain to the control of national intelligence and counterintelligence, which is the responsibility of the Director of Central Intelligence; to communications security equipment or information, which is a responsibility of the National Telecommunications and Information Systems Security Committee; to atomic information, which is controlled by the Atomic Energy Act of 1954, as amended; to special compartmented information which is the responsibility of the Director of the National Security Agency and the Director of Central Intelligence; or to strategic planning and guidance, which is the responsibility of the Secretary of Defense, his deputy or the Joint Chiefs of Staff.

The Secretaries of State and Defense have designated the National Disclosure Policy Committee (NDPC) as the central inter-agency authority within the Executive Branch of the United States Government responsible for the formulation, promulgation, administration, and monitoring of the National Disclosure Policy. By agreement between the Secretaries, the Secretary of Defense provides Chairmanship and administrative support for the NDPC. The NDPC is composed of General and Special Members. General Members are those who have a broad interest in all aspects of Committee operations, while Special Members are those who have a significant interest in some, but not all, aspects of Committee operations. See Tab A for the list of General and Special Members.

The National Disclosure Policy document (NDP-1) sets forth specific criteria and conditions which must be satisfied before a decision is made to release CMI to foreign governments and international organizations. A discussion of the criteria is found at Tab B. It also establishes eight categories of CMI (see Tab C) and delegates disclosure authority in the form of eligibility levels within each category for specific international organizations and most foreign governments (see Tab D).

These eligibility levels are established by the NDPC for those countries with whom we exchange classified military information on a continuing basis, and then only when their capability and intent to protect classified military information has been firmly established by the completion of a favorable on-site security survey and the negotiation of a General Security of Military Information Agreement (GSOMIA). A discussion concerning on-site surveys and GSOMIAs is at Tab E.

Each year there are about 12,000 disclosure decisions made. Obviously, the Committee itself cannot handle this volume. Consequently, disclosure authority must be delegated. Disclosure authority in the Department of Defense has been delegated to the Secretaries of the Military Departments, the Joint Chiefs of Staff, the Director, Defense Intelligence Agency, and several other key officials. They may in turn further redelegate this authority in writing. Designated

officials are authorized to disclose information up to the classification levels specified in the charts described above for the particular category of information, provided each of the five disclosure policy criteria discussed earlier are met and the official approving the release has been delegated disclosure authority in writing and has classification jurisdiction over the information; for example, a Navy disclosure official cannot release Air Force information. Each decision made by disclosure officials is done on a case-by-case basis. Department of Defense disclosure authorities are listed at Tab F.

In those cases where the highest classification level of information to be disclosed exceeds the delegated eligibility levels, or if all the disclosure criteria cannot be met, an exception to the National Disclosure Policy must be authorized prior to the release of any information, even unclassified. Exceptions to the National Disclosure Policy may be authorized personally by the Secretaries of State and Defense, their respective deputies, or the National Disclosure Policy Committee. However, the Secretary of State or his deputy must obtain the consent of the owning department or agency, normally Defense, prior to authorizing an exception to policy. In most cases, exceptions to policy are granted or denied by the National Disclosure Policy Committee. Committee decisions must be unanimous. In the case of a split vote, the Chairman is required to evaluate the positions of the members, and circulate a memorandum of intent to approve or deny the request. The members have the prerogative to appeal the Chairman's decision, within 10 working days, to the Secretary or Deputy Secretary of Defense, whose decision is final. In the absence of an appeal, the Chairman's position stands as an agreed NDPC decision on the matter.

National Disclosure Policy Committee

Membership

The General Members are representatives of:

The Secretary of State
The Secretary of Defense
The Secretary of the Army
The Secretary of the Navy
The Secretary of the Air Force
The Chairman, Joint Chiefs of Staff

The Special Members are representatives of:

The Secretary, Department of Energy
The Director of Central Intelligence
The Under Secretary of Defense for Policy
The Under Secretary of Defense for Research
and Engineering
The Assistant Secretary of Defense for Command,
Control, Communications and Intelligence
The Assistant to the Secretary of Defense
(Atomic Energy)
The Director, Defense Intelligence Agency
The Director, Strategic Defense Initiative
Organization

Disclosure Criteria

Disclosures may be authorized only when the U.S. official proposing release has been delegated authority to disclose the highest level of classified military information involved, and when all of the following criteria are satisfied:

- Disclosure is consistent with the foreign policy of the United States toward the recipient nation or international organization. For example:
 - .. The recipient cooperates with the United States in pursuance of military and political objectives which are compatible with those of the United States.
 - .. A specific US national purpose, diplomatic or military, will be served.
 - .. The information will be used in support of mutual defense and security objectives.
- The military security of the United States permits disclosure. For example:
 - .. Disclosures of advanced technology will not constitute an unreasonable risk to the US position in military technology.
 - .. The proposed disclosure reflects the need for striking a proper balance between pursuit of our mutual defense and foreign policy objectives on the one hand and the preservation of the security of our military secrets on the other.
- The foreign recipient of the information will afford it substantially the same degree of security protection given to it by the United States.
- Disclosures will result in benefits to the United States at least equivalent to the value of the information disclosed. For example:
 - .. The United States obtains information from the recipient nation on a quid pro quo basis.
 - .. Exchange of military information or participation in a cooperative project will be advantageous to the United States from a technical or other military viewpoint.
 - .. The development or maintenance of a high level of military strength and effectiveness on the part of the government receiving the information will be advantageous to the United States.
- Disclosure is limited to information necessary to the purpose for which disclosure is made.

Description of Informational Categories

CATEGORY 1 - ORGANIZATION, TRAINING AND EMPLOYMENT OF MILITARY FORCES

Information of a general nature pertaining to tactics, techniques, tactical doctrine and intelligence and counter-intelligence doctrine and techniques. Excluded is information necessary for operation, training and maintenance on specific equipment covered under Categories 2 and 3.

CATEGORY 2 - MILITARY MATERIEL AND MUNITIONS

Information on specific items of equipment already in production, or in service, and the information necessary for operation, maintenance and training. Items on the US Munitions List fall within this category. This category does not pertain to equipment which is in research and development.

CATEGORY 3 - APPLIED RESEARCH AND DEVELOPMENT INFORMATION AND MATERIEL

Information related to fundamental theories, design and experimental investigation into possible military applications; it includes engineering data, operational requirements, concepts and military characteristics required to adopt the item for production. Development ceases when the equipment has completed suitability testing and has been adopted for use or production.

CATEGORY 4 - PRODUCTION INFORMATION

Information related to designs, specifications, manufacturing techniques and such related information necessary to manufacture materiel and munitions.

CATEGORY 5 - COMBINED MILITARY OPERATIONS, PLANNING AND READINESS

Information necessary to plan, assure readiness for, and provide support to the achievement of mutual force development goals or participation in specific combined tactical operations and exercises. It does not include strategic plans and guidance or North American Defense information.

CATEGORY 6 - US ORDER OF BATTLE

Information pertaining to US forces in a specific area. In general, disclosures of this information are limited to those countries in which US Forces are stationed or are in adjacent geographical areas.

CATEGORY 7 - NORTH AMERICAN DEFENSE

Information related to plans, operations programs and projects, to include data and equipment, directly related to North American Defense.

CATEGORY 8 - MILITARY INTELLIGENCE

Information of a military character pertaining to foreign nations. This category of information does not include national intelligence or sensitive compartmented information under the purview of the Director of Central Intelligence or the Director, National Security Agency.

ANNEX TO NATIONAL DISCLOSURE POLICY

CHARTS

		COUNTRY A	COUNTRY B	COUNTRY C
ORGANIZATION, TRAINING AND EMPLOYMENT OF MILITARY FORCES	1	S	C	
MILITARY MATERIEL AND MUNITIONS	2	S	C	
APPLIED RESEARCH AND DEVELOPMENT INFORMATION AND MATERIEL	3	C		
PRODUCTION INFORMATION	4	C		
COMBINED MILITARY OPERATIONS, PLANNING AND READINESS	5			
U.S. ORDER OF BATTLE	6			
NORTH AMERICAN DEFENSE	7			
MILITARY INTELLIGENCE	8	TS	S	X

General Security of Military Information Agreements
and NDPC Security Surveys

Decisions to disclose US classified military information to foreign governments are based on a determination that the recipient government has both the capability and intent to protect such information substantially the same as it is protected by the US Government. Intent is established by the negotiation of a bilateral General Security of Military Information Agreement. Capability is determined by an on-site security survey conducted under the auspices of the National Disclosure Policy Committee.

a. To establish a foreign government's intent to protect such information, we negotiate two types of security agreements.

1. The General Security of Military Information Agreement (GSOMIA) is a government-to-government agreement, negotiated through diplomatic channels. It states, in substance, that each party to the agreement will afford to classified information provided by the other, the degree of security protection afforded it by the releasing government. It contains provisions concerning the use of each other's information, third party transfers, and proprietary rights. It specifies that transfers of information will be on a government-to-government basis. It provides that both parties agree to report any compromise, or possible compromise, of classified information provided by the other party. Moreover, the GSOMIA states that both parties will permit visits by security experts of the other party for the purpose of conducting the reciprocal security surveys.

2. The Industrial Security Protocol is negotiated by the Department of Defense (DoD) as an annex to the GSOMIA, with those foreign governments with which DoD has entered into co-production, codevelopment and/or reciprocal procurement arrangements, involving industry. It includes provisions for clearance of facilities and personnel, the handling and transmission of classified material, and procedures for visits.

b. The purpose of the NDPC on-site security survey is to determine whether the foreign government or international organization has the capability to protect US classified military information in a manner that is substantially equivalent to the protection afforded to it by the United States. The surveys are reciprocal--many foreign governments have conducted security surveys in the US. Further, the surveys provide a sound current basis for the US foreign disclosure community to appraise the security capabilities and limitations of the foreign recipients of such information. The surveys assist in the process of determining classification eligibility levels, formulating special disclosure policies on individual nations, and in evaluating requests for exceptions to the National Disclosure Policy.

The National Disclosure Policy Committee has full responsibility for carrying out these surveys. Although coordination with US Embassies is accomplished through the State Department, it is necessary for the NDPC to make all other arrangements to include the establishment of teams of security experts from various member agencies, schedule pre-departure briefings, make travel arrangements and supervise preparation of the final report. While the National Security Council has directed the conduct of these security surveys, the people who comprise the teams and the funds for travel are obtained from within the limited resources of the various member agencies.

Department of Defense Disclosure Authorities

The following officials within the Department of Defense are delegated authority to disclose or deny US classified military information originating in their organizations within the limitations of NDP-1, and may redelegate such disclosure authority, in writing, as required for efficient operation and administration of commands and agencies under their direction, authority or control. Delegations of authority shall be limited absolutely to those officials whose duties and responsibilities specifically require such authority, e.g., participation in, or oversight responsibility for international programs.

- (1) The Secretary of the Army
- (2) The Secretary of the Navy
- (3) The Secretary of the Air Force
- (4) The Joint Chiefs of Staff
- (5) The Under Secretary of Defense for Policy
- (6) The Under Secretary of Defense for Research and Engineering
- (7) The Assistant Secretary of Defense for Command, Control, Communications and Intelligence
- (8) The Director, Defense Intelligence Agency
- (9) The Director, Strategic Defense Initiative Organization

The Joint Chiefs of Staff may redelegate authority, in writing, to the following commanders or chairperson who report through the Joint Chiefs of Staff, or for whom they exercise primary staff supervision, to disclose or deny US classified military information in their organizations within the limitations of NDP-1:

- (1) Commanders, Unified and Specified Commands
- (2) Chairperson, Military Communications-Electronics Board

The heads of organizational elements within the Office of the Secretary of Defense and the heads of any DoD Components not listed above, may also seek authority from the Deputy Under Secretary of Defense for Policy to disclose or deny classified military information originating within their components to foreign governments and international organizations.