



Department of Defense

# DIRECTIVE

**NUMBER 5230.11**

June 16, 1992

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USD(P)

**SUBJECT:** Disclosure of Classified Military Information to Foreign Governments and International Organizations

- References:
- (a) DoD Directive 5230.11, "Disclosure of Classified Military Information to Foreign Governments and International Organizations," December 31, 1984 (hereby canceled)
  - (b) DoD Instruction 5230.17, "Procedures for Disclosure of Classified Military Information to Foreign Governments and International Organizations," February 17, 1985 (hereby canceled)
  - (c) National Disclosure Policy-1, "National Policy and Procedures for the Disclosure of Classified Military Information to Foreign Governments and International Organizations," (short title: National Disclosure Policy (NDP-1)), October 1, 1988<sup>1</sup>
  - (d) through (t), see enclosure 1

## 1. REISSUANCE AND PURPOSE

This Directive reissues reference (a), replaces reference (b), implements reference (c), and updates policy, responsibilities, and procedures governing proposed disclosures of classified military information to foreign governments and international organizations (hereafter referred to as "foreign governments").

## 2. APPLICABILITY AND SCOPE

This Directive applies to:

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<sup>1</sup> Provided to designated disclosure authorities on a need-to-know basis from the Office of the Director for International Security Programs, Office of the Deputy Under Secretary of Defense for Security Policy (ODUSD(SP)).

2.1. The Office of the Secretary of Defense, the Military Departments, the Chairman of the Joint Chiefs of Staff and the Joint Staff, the Unified and Specified Commands, the Defense Agencies, and the DoD Field Activities (hereafter referred to collectively as "the DoD Components").

2.2. All disclosures of classified military information defined in enclosure 2. Disclosures of military intelligence information, however, also must be in compliance with DoD Directive C-5230.23 (reference (d)).

2.3. Classified information involved in munitions license applications processed under DoD Directive 2040.2 and the ITAR (references (e) and (f)).

### 3. DEFINITIONS

Terms used in this Directive are defined in enclosure 2.

### 4. POLICY

It is U.S. national and DoD policy under NDP-1 (reference (c)) that:

4.1. Classified military information is a national security asset that shall be protected and shall be shared with foreign governments only when there is a clearly defined benefit to the United States. Disclosures of such information shall be made only when authorized by officials designated under this Directive and then only when all requirements of this Directive are met.

4.2. An official who has been specifically delegated disclosure authority under section 5., below, may authorize disclosures of classified military information to foreign governments in support of a lawful and authorized U.S. Government purpose if the:

4.2.1. Official represents the DoD Component that originated the information.

4.2.2. Level of classified information to be disclosed does not exceed the classification level delegated by Annex A of reference (c).

4.2.3. Criteria and conditions in enclosure 3 are satisfied.

4.3. The Secretary of Defense and the Deputy Secretary of Defense are the only DoD officials who have original authority to grant exceptions to the policy contained in this Directive. The Secretary of Defense has delegated authority to the National Military Information Disclosure Policy Committee (NDPC) to consider and grant requests for exceptions to policy in compliance with reference (c).

4.4. Classified military information shall not be disclosed to foreign nationals until the appropriate designated disclosure authority receives a security assurance from the recipient foreign government on the individuals who are to receive the information.

4.5. In accordance with reference (c), it is U.S. policy to avoid creating false impressions of U.S. readiness to make available classified military information, materiel, or technology. Accordingly, designated disclosure authorities of the originating DoD Component, or, when an exception to policy is required, the Secretary of Defense, the Deputy Secretary of Defense or the NDPC must authorize, in advance, proposals to be made to foreign governments that could lead to the eventual disclosure of classified military materiel, technology, or information. Commitments shall not be expressed or implied, and no disclosures shall be made pending the required disclosure decision.

4.6. Disclosure planning shall include the following:

4.6.1. Planning for possible foreign involvement should start at the beginning of the weapon system acquisition process and other programs, to facilitate decisions on the disclosure of classified and controlled unclassified information in support of cooperative programs, foreign participation in the DoD procurement activities, and foreign sales. The planning shall include consideration of the requirements set forth in DoD Instruction 5000.2, Part 5, Section F (reference (g)).

4.6.2. The DoD Components shall use the Technology Assessment/Control Plan in DoD Directive 5530.3 (reference (h)) as the basis for making the stated disclosure decisions in subparagraph 4.6.1., above, on weapon system programs.

4.6.3. A delegation of disclosure authority letter (DDL) similar to that in enclosure 4 shall be used to provide disclosure guidance to subordinate commands and Agencies and, when applicable, to the DoD contractors.

4.7. All disclosures and denials of classified military information shall be reported in the Foreign Disclosure and Technical Information System (FORDTIS), in accordance with DoD Instruction 5230.18 (reference (i)). For denials, disclosure authorities must take special care to record a concise summary of the analysis that led to the denial.

4.8. Under conditions of actual or imminent hostilities, any Unified or Specified Commander may disclose classified military information through TOP SECRET to an actively participating allied force when support of combined combat operations requires the disclosure of that information. The appropriate U.S. Commander shall notify the Chairman of the Joint Chiefs of Staff of such disclosures. The Chairman of the Joint Chiefs of Staff, in turn, shall notify the Office of the Under Secretary of Defense for Policy, ATTN: Chairman, NDPC, who shall determine any limitations that should be imposed on continuing disclosure of the information. The U.S. Commander shall be informed of any limitations through the Chairman of the Joint Chiefs of Staff.

4.9. The classified military information that is approved for foreign disclosure shall be transmitted to the intended foreign recipient through government-to-government channels, in accordance with DoD 5200.1-R, chapter 8 (reference (j)).

## 5. RESPONSIBILITIES

5.1. The Under Secretary of Defense for Policy shall:

5.1.1. Ensure effective implementation of the National Disclosure Policy and operation of the NDPC under NDP-1 (reference (c)).

5.1.2. Designate the Chair of the NDPC, who shall represent the Secretary of Defense on the NDPC.

5.1.3. Advise the DoD Components and the NDPC about security matters on disclosures.

5.1.4. Draft and negotiate with foreign governments, in coordination with the other applicable DoD Components and Federal Departments and Agencies, security agreements governing the safeguarding of classified military information and equipment.

5.1.5. Coordinate on all international agreements negotiated under DoD Directive 5530.3 (reference (h)) that involve the disclosure of classified military information.

5.1.6. Review and approve, when justified, requests for disclosure authority from Heads of the OSD organizational elements and the DoD Components not covered in paragraph 5.2., below.

5.1.7. Issue policy governing international visits, the assignment of liaison officers and exchange officers, and other assignments of foreign representatives to the DoD Components and defense contractors.

5.1.8. Maintain effective liaison with security officials of allied and friendly governments with which the U.S. Government has entered into security agreements.

5.1.9. Direct, manage, and control the FORDTIS, in accordance with DoD Instruction 5230.18 (reference (i)).

5.1.10. Issue necessary supplemental publications for the effective implementation of this Directive.

5.1.11. Publish an annual schedule to keep the DoD Components informed of security survey support requirements.

5.1.12. Record decisions rendered on requests for exception to reference (c) in the FORDTIS, in accordance with reference (i).

5.2. The Under Secretary of Defense for Policy, in addition to the responsibilities in paragraph 5.1., above, and the Secretaries of the Military Departments, the Under Secretary of Defense (Acquisition), the Chairman of the Joint Chiefs of Staff, the Assistant Secretary of Defense (Command, Control, Communications and Intelligence), the Director, Defense Intelligence Agency, and the Director, National Security Agency/Central Security Service, shall:

5.2.1. Authorize disclosures or denials of the U.S. classified military information for which they are the originating DoD Component in accordance with this Directive.

5.2.2. Designate a senior official to be the principal disclosure authority for their DoD Component. Such designations shall be in writing, with a copy provided to the Chair of the NDPC.

5.2.3. Provide disclosure authority, in writing, to the Heads of Commands and Agencies and major staff elements under their direction, control, or authority, as necessary, to ensure efficient operation of those Commands, Agencies, and staff elements.

5.2.4. Require that the Heads of Commands, Agencies, and staff elements to whom disclosure authority has been provided appoint a designated disclosure authority.

5.2.5. Coordinate with the Chair of the NDPC all proposed disclosure decisions to be referred directly to the Secretary of Defense or the Deputy Secretary of Defense.

5.2.6. Provide the necessary support to the Chair of the NDPC to do security surveys of foreign government security programs. (See subparagraph 6.9.3.2., below.)

5.2.7. Forward any inquiries concerning this Directive to the Office of the Under Secretary of Defense for Policy, Attn: Deputy Under Secretary of Defense (Security Policy).

5.2.8. Ensure that the principal disclosure authorities shall:

5.2.8.1. Control disclosures for their respective DoD Component.

5.2.8.2. Ensure the competency of subordinate officials appointed as designated disclosure authorities.

5.2.8.3. Ensure that all proposed disclosure actions originating in their DoD Component are coordinated with the other DoD Components that have a joint or shared interest in the information involved.

5.2.8.4. Designate a member and an alternate to represent their DoD Component on the NDPC and ensure that the persons designated:

5.2.8.4.1. Are thoroughly familiar with the daily administration of disclosure activities in their respective DoD Component.

5.2.8.4.2. Are qualified to provide broad professional guidance on matters brought before the NDPC.

5.2.8.4.3. Have direct access to the DoD Component's principal disclosure authority as well as to other members of the NDPC.

5.2.8.5. Ensure that their DoD Component's disclosure decisions are reported to the FORDTIS in accordance with DoD Instruction 5230.18 (reference (i)).

5.2.8.6. Coordinate requests for disclosures of classified military information involved in litigation with the General Counsel of the Department of Defense or the General Counsel of the DoD Component concerned, as appropriate, before determining whether to disclose the requested information.

5.2.8.7. Ensure that DoD Component personnel traveling overseas are provided disclosure guidance and are informed of and comply with the policy for overseas travel described in DoD 5200.1-R, chapter 8 (reference (j)).

5.3. The Chairman of the Joint Chiefs of Staff shall represent the Commanders of the Unified and Specified Commands on the NDPC.

5.4. The General Counsel of the Department of Defense shall:

5.4.1. Ensure the legal adequacy of security agreements between the United States and foreign governments that establish procedures for the protection of the classified military information.

5.4.2. Advise the DoD Components and the NDPC on the legal aspects of applying the NDP-1 (reference (c)) to individual disclosure decisions.

5.5. The Assistant to the Secretary of Defense (Atomic Energy) shall inform the other NDPC members on the current implementation of international agreements made under the Atomic Energy Act (reference (k)). That includes any statutory determinations and requirements placed on recipient foreign governments and international organizations for safeguarding atomic information released to them.

5.6. The Secretary of the Air Force shall provide resources for the operation, maintenance, and administration of the FORDTIS, and comply with DoD 7110.1-M (reference (l)) on requests for funds to carry out that FORDTIS responsibility.

## 6. PROCEDURES

### 6.1. International Agreements

6.1.1. Early Disclosure Determination. Before any discussions with foreign representatives on the negotiation of an international agreement that is governed by DoD Directive 5530.3 (reference (h)), the DoD Components shall determine the extent to which classified military information will be required for release, and obtain disclosure authorization for the information. (See paragraph 4.6., above.)

6.1.2. Security Requirements. International agreements that involve the disclosure of classified military information shall contain, at a minimum, the security requirements in paragraph E3.1.2. of enclosure 3. If a general security agreement exists with the foreign government concerned, this requirement may be satisfied by referencing that agreement. Such agreements shall be coordinated with the Office of the Under Secretary of Defense for Policy, ATTN: Deputy Under Secretary of Defense (Security Policy), who may specify other requirements during coordination.

6.1.3. Cooperative Programs. Disclosure authorities shall review carefully any request for classified military information made in accordance with a cooperative agreement with both the goals of the program and the interests of national security in mind.

6.2. Meetings, Symposia, and Conferences. The conduct and organization of meetings, symposia, and conferences where classified military information is to be disclosed shall be in accordance with DoD Directive 5200.12 and DoD 5200.1-R (references (m) and (j)).

6.2.1. Foreign Participation. Foreign nationals may participate in such gatherings when their participation is in accordance with this Directive and U.S. export control policies, the appropriate designated disclosure authorities have approved any classified or controlled unclassified information for disclosure to the proposed foreign attendees, the foreign attendees actively participate in the proceedings, and there is reciprocity for the U.S. Government and industry representatives.

6.2.2. Disclosure Levels. The classification levels and categories of information authorized for disclosure vary among nations. The DoD Components shall limit the level of classified information to be disclosed at meetings attended by foreign representatives to the lowest level that is common to all nations represented.

6.3. Foreign Visitors, Liaison Officers, and Exchange Personnel. Procedures on such individuals shall be in accordance with DoD Directive 5230.20 (reference (n)). Disclosures of classified information shall be in accordance with this Directive.

6.4. Sales, Leases, Loans, or Grants of Classified Items. In implementing the policy in paragraph 4.5., above, the DoD Components shall comply with the following standards when authorizing the disclosure or commercial export of any information, classified or unclassified, relating to sales, leases, loans, or grants of military equipment:

6.4.1. Release Authorization. Before approval of initiatives that could lead to a sale, lease, loan, or grant of military equipment, obtain authorization from the appropriate designated disclosure authority for disclosure of all necessary classified equipment and information required for system operation, employment, maintenance, and training, including system software.

6.4.2. Initial Disclosures. Limit initial disclosures to general information, usually no higher than CONFIDENTIAL, on system characteristics, capabilities, and price and availability until a sale, lease, loan, or grant is consummated.

6.4.3. System Countermeasures. Withhold specific information on system countermeasures susceptibilities or vulnerabilities and counter-countermeasures capabilities, until the sale, lease, loan, or grant is consummated.

6.4.4. Operation, Employment, Maintenance, and Training. After consummation of a sale, lease, loan, or grant, classified military information may be disclosed up to the level necessary for operation, employment, maintenance, and training.

6.4.5. Data Packages. Edit or rewrite data packages to exclude information that is beyond that which has been authorized for disclosure.

6.4.5.1. The disclosure of technical data for production purposes shall be limited to data that is necessary to produce a specific item that is approved for release to the country that is to receive the data.

6.4.5.2. The disclosure of technical data for maintenance purposes shall be limited to data that is necessary to perform the level of maintenance that has been authorized for the country that is to receive the data.

### 6.5. Foreign Test and Evaluation

6.5.1. Foreign test and evaluation of the U.S. classified equipment may be authorized when the tests:

6.5.1.1. Are on an item approved for foreign disclosure by the appropriate disclosure authority.



6.5.1.2. Can be performed at a U.S. installation or under other strict U.S. control that guarantees appropriate safeguards for classified information and classified or unclassified critical technology.

6.5.2. Exceptions to subparagraph 6.5.1.2., above, such as the transfer of a single classified military item for test and evaluation under foreign security control, may be authorized only when all of the following conditions are fulfilled:

6.5.2.1. There is no transfer of, and the test will not reveal, technology that the United States would not license for manufacture in the foreign country.

6.5.2.2. There is no release of equipment that would not be approved for foreign sale or export to the foreign country, if requested.

6.5.2.3. The release will result in a clearly defined advantage to the United States; for example:

6.5.2.3.1. Specifically defined avoidance of significant costs or acceleration of programs in development efforts by the United States and its allies.

6.5.2.3.2. Advance the objectives of standardization with and among U.S. allies by promoting cooperation in research and development.

6.5.2.3.3. Exchange technical and scientific information of common interest on a mutually beneficial basis.

6.5.2.4. The Secretary of the Military Department concerned, in coordination with the Office of the Under Secretary of Defense (Acquisition), approves the exception as meeting the described conditions in subparagraph 6.5.2., above. The Chair of the NDPC shall be informed of each exception; the Chair shall notify the NDPC members.

6.5.2.5. The test is performed under a test and evaluation agreement negotiated under DoD Directive 5530.3 (reference (h)), or a lease arrangement or sales contract containing requisite security controls.

6.5.2.6. The releases are reported to the FORDTIS.

## 6.6. Foreign Participation in DoD Component Classified Training Activities

6.6.1. Receiving Training on U.S. Equipment. A foreign national may receive training on U.S. equipment that is classified or involves classified information, if the equipment is in the inventory of or is to be acquired by the trainee's government after the following:

6.6.1.1. The prospective trainee's government has concluded an international agreement or signed a purchase agreement with the United States to acquire the equipment and training; or

6.6.1.2. The Defense Security Assistance Agency has issued an International Military Education and Training (IMET) order for the training.

6.6.2. Conducting Training on U.S. Equipment. A foreign national may conduct training on U.S. equipment that is classified or involves classified information, if the item has been sold or otherwise provided to the foreign national's government and the U.S. Government has specifically approved the provisions of such training to any third party that is involved.

6.6.3. Third-Country Equipment. Foreign nationals may receive or conduct training on equipment provided by a third-country that is classified or involves third-country classified information only with the prior written consent of the government that provided the equipment.

#### 6.7. Requests for Classified Documents

6.7.1. Disclosure Review. Requests for classified documents by a foreign representative shall be forwarded to the applicable designated disclosure authority of the originating DoD Component for review and approval or denial. The requests shall be processed using the FORDTIS, when practicable.

6.7.2. Report to the FORDTIS. The designated disclosure authority that renders the decision shall report it to the FORDTIS under DoD Instruction 5230.18 (reference (i)).

6.7.3. Reference Lists and Bibliographic Material. To avoid false impressions and to avoid proliferation of requests for classified military information that is not releasable to the requestor, the DoD Components shall:

6.7.3.1. When practical, excise references to nonreleasable documents and information from material that may be otherwise released.

6.7.3.2. Discourage release of documents that are reference lists or are bibliographic. To react favorably to justified foreign requests for information, identify the requestor's specific requirements and provide only the U.S. information that satisfies that requirement and is determined to be releasable.

6.8. Foreign Access to Information When Participating in U.S. Procurement Programs. Participation consistent with applicable U.S. laws, regulations, and security requirements in DoD procurement initiatives by contractors from countries with which the Department of Defense has agreements that encourage reciprocal participation in

defense procurement may include access to classified information consistent with this Directive as follows:

6.8.1. Access to Technical Data. Qualified government and industry representatives from those countries shall be given appropriate access to technical data, consistent with this Directive and the ITAR (reference (f)), necessary to bid on the DoD contracts.

6.8.2. Disclosure Decisions. Disclosure decisions involving those countries shall be made before the announcement of the procurement (see paragraph 4.6., above), and the announcement shall describe any restrictions on foreign participation.

6.8.3. Participation as Subcontractor. When it is determined that foreign contractors are not authorized to participate in the classified or other sensitive aspects of a potential contract, consideration should be given to their requests for participation in unclassified or less sensitive aspects of the contract as a subcontractor.

6.8.4. Requests for Documentation. Requests by foreign entities for classified or controlled unclassified documentation must be submitted through Government channels.

6.9. NDPC Operations. The following procedures apply to the activities below:

6.9.1. Exceptions to NDP-1

6.9.1.1. Exceptions to NDP-1 (reference (c)), other than those granted by the Secretary of Defense or the Deputy Secretary of Defense, shall be granted only by the NDPC.

6.9.1.2. All proposed disclosure actions that require decisions by the Secretary of Defense or the Deputy Secretary of Defense shall contain the views of the originating DoD Component or Agency and shall be coordinated with the Chair of the NDPC.

6.9.1.3. When the Secretary of Defense or the Deputy Secretary of Defense grants an exception to policy, the DoD Component originating or participating in the determination shall notify the Chair of the NDPC so that the exception may be recorded properly and reported promptly to the NDPC members and the National Security Council and recorded in the FORDTIS.

6.9.1.4. All other requests for exception to policy shall:

6.9.1.4.1. Be forwarded through channels to the designated disclosure authority who represents the requestor's organization on the NDPC.

6.9.1.4.2. At a minimum, include the information in enclosure 5.

6.9.2. Reporting to the NDPC of Compromises of U.S. Classified Military Information Furnished to Foreign Governments. The DoD Components having knowledge of compromises of U.S. classified information by foreign governments promptly shall inform the originating DoD Component. The originating DoD Component shall conduct a damage assessment and shall provide copies of the completed case report and damage assessment to the Chair of the NDPC. If the originating DoD Component is not known, the Chair of the NDPC shall conduct the damage assessment and prepare the case report. In either situation, the Chair of the NDPC shall provide the NDPC with an evaluation to serve as a basis for determining whether the nature of the compromise requires a change in reference (c).

6.9.3. Operation of the NDPC

6.9.3.1. NDP-1, NDPC Record of Action 001.7/70 (references (c) and (o)), and this Directive govern the DoD Component participation in the NDPC operations.

6.9.3.2. The DoD Components shall provide qualified personnel to participate on the NDPC security survey teams, when requested. The parent DoD Component shall bear travel and per diem expenses for participants.

6.9.3.3. The DoD members of NDPC security survey teams shall participate in pre-departure briefings, all scheduled team activities, and the preparation of all reports and briefings resulting from the security survey.

6.9.4. Cooperation with the NDPC. Under the NDP-1 (reference (c)), the Chair of the NDPC acts for and in the name of the Secretary of Defense in carrying out the decisions of the NDPC. All of the DoD Components shall support the Chair's requests for assistance in disclosure matters.

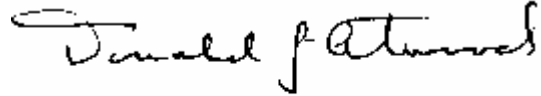
6.10. Classification Requirements. DoD 5200.1-R (reference (j)) governs classification and safeguarding of classified information. The DoD Components also shall follow the security classification guide for NDP matters in enclosure 6.

## 7. INFORMATION REQUIREMENTS

The reports referenced in this Directive are exempt from licensing in accordance with paragraph 5.4.2. of DoD 7750.5-M (reference (p)).

## 8. EFFECTIVE DATE AND IMPLEMENTATION

This Directive is effective immediately. Forward one copy of implementing documents to the Under Secretary of Defense for Policy within 120 days.



Donald J. Atwood  
Deputy Secretary of Defense

Enclosures - 6

- E1. References, continued
- E2. Definitions
- E3. NDP-1 Disclosure Criteria, Conditions, and Limitations
- E4. The DDL
- E5. Requests for Exception to Policy
- E6. Security Classification Guide for NDP

E1. ENCLOSURE 1

REFERENCES, continued

- (d) DoD Directive C-5230.23, "Intelligence Disclosure Policy (U)," November 18, 1983
- (e) DoD Directive 2040.2, "International Transfers of Technology, Goods, Services, and Munitions," January 17, 1984
- (f) Title 22, Code of Federal Regulations, Parts 120-130, "International Traffic in Arms Regulations (ITAR)"
- (g) DoD Instruction 5000.2, "Defense Acquisition Management Policies and Procedures," February 23, 1991
- (h) DoD Directive 5530.3, "International Agreements," June 11, 1987
- (i) DoD Instruction 5230.18, "The DoD Foreign Disclosure and Technical Information System (FORDTIS)," November 6, 1984
- (j) DoD 5200.1-R, "Information Security Program Regulation," June 1986
- (k) Public Law 83-703, "Atomic Energy Act of 1954," August 30, 1954, as amended (Sections 2121, 2153, and 2164 of title 42, United States Code)
- (l) DoD 7110.1-M, "Department of Defense Budget Guidance Manual," May 1990
- (m) DoD Directive 5200.12, "Conduct of Classified Meetings," May 16, 1988
- (n) DoD Directive 5230.20, "Control of Foreign Representatives," June 25, 1984
- (o) National Military Information Disclosure Policy Committee Record of Action 001.7/70, "NDPC Detailed Operating Procedures," September 15, 1981
- (p) DoD 7750.5-M, "DoD Procedures for Management of Information Requirements," November 1986
- (q) Executive Order 12356, "National Security Information," April 2, 1982
- (r) DoD Directive 5230.25, "Withholding of Unclassified Technical Data from Public Disclosure," November 6, 1984
- (s) DoD Directive 5400.7, "DoD Freedom of Information Act Program," May 13, 1988
- (t) Title 15, Code of Federal Regulations, Parts 730-799, "Export Administration Regulations (EAR)"

## E2. ENCLOSURE 2

### DEFINITIONS

E2.1.1. Classified Military Equipment. Military equipment that is itself classified; contains classified information that may be derived from or revealed by its operation or testing; or will require the disclosure of classified information for operation, employment, maintenance, or training.

E2.1.2. Classified Military Information. Information originated by or for the Department of Defense or its Agencies or is under their jurisdiction or control and that requires protection in the interests of national security. It is designated TOP SECRET, SECRET, and CONFIDENTIAL, as described in E.O. 12356 (reference (q)). Classified military information may be in oral, visual, or material form and has been subdivided further into the eight categories described below:

E2.1.2.1. Category 1 - Organization, Training, and Employment of Military Forces. Information of a general nature pertaining to tactics, techniques, tactical doctrine, and intelligence and counterintelligence doctrine and techniques. Excluded is information necessary for the operation, training, and maintenance on specific equipment covered under Categories 2 and 3, below.

E2.1.2.2. Category 2 - Military Materiel and Munitions. Information on specific items of equipment already in production, or in service, and the information necessary for the operation, maintenance, and training. Items on the U.S. Munitions List fall within this category. This category does not pertain to equipment that is in research and development.

E2.1.2.3. 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.

E2.1.2.4. Category 4 - Production Information. Information related to designs, specifications, manufacturing techniques, and such related information necessary to manufacture materiel and munitions.

E2.1.2.5. Category 5 - Combined Military Operations, Planning, and Readiness. Information necessary to plan, ensure 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.

E2.1.2.6. Category 6 - U.S. Order of Battle. Information pertaining to U.S. forces in a specific area. In general, disclosures of this information are limited to those countries in which U.S. Forces are stationed or are in adjacent geographical areas.

E2.1.2.7. Category 7 - North American Defense. Information related to plans, operations, programs, and projects, to include data and equipment, directly related to North American defense.

E2.1.2.8. 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 (DCI).

E2.1.3. Controlled Unclassified Information. Unclassified information to which access or distribution limitations have been applied in accordance with national laws, policies, and regulations of the originating country. It includes U.S. information that is determined to be exempt from public disclosure in accordance with DoD Directives 5230.25 and 5400.7 (references (r) and (s)) or that is subject to export controls in accordance with the ITAR (reference (f)) or the EAR (reference (t)).

E2.1.4. Delegation of Disclosure Authority Letter (DDL). A letter issued by the appropriate designated disclosure authority explaining classification levels, categories, scope, and limitations of information under a DoD Component's disclosure jurisdiction that may be disclosed to a foreign recipient. It is used to delegate disclosure authority to subordinate disclosure authorities.

E2.1.5. Designated Disclosure Authority. An official, at subordinate component level, designated by the Head of a DoD Component or the Component's Principal Disclosure Authority to control disclosures of classified military information by his or her organization.

E2.1.6. Disclosure. Conveying classified information, in any manner, to an authorized representative of a foreign government.

E2.1.7. Foreign Disclosure and Technical Information System (FORDTIS). An automated system to assist decision makers and analysts in reviewing, coordinating, and reaching decisions concerning proposals to release classified military information, materiel, and technology to foreign governments.

E2.1.8. Government-to-Government Channels. The principle that classified information and materiel will be transferred by government officials through official channels or through other channels expressly agreed upon by the governments involved.



In either case, the information or materiel may be transferred only to a person specifically designated in writing by the foreign government as its representative for that purpose.

E2.1.9. Intelligence. The product resulting from the collection, processing, integration, analysis, evaluation, and interpretation of available information concerning foreign countries or areas.

E2.1.10. International Organization. An entity established by recognized governments pursuant to an international agreement which, by charter or otherwise, is able to acquire and transfer property, make contracts and agreements, obligate its members, and pursue legal remedies.

E2.1.11. Joint Information. Military information over which two or more DoD Components, or two or more Federal Departments or Agencies, exercise control, jurisdiction, or security awareness.

E2.1.12. Meeting. A conference, seminar, symposium, exhibit, convention, training course, or other gathering during which classified or controlled unclassified information is disclosed.

E2.1.13. Originating DoD Component. The DoD Agency that exercises original classification jurisdiction for classified information.

E2.1.14. Security Assurance. The written confirmation, requested by and exchanged between governments, of the security clearance level or eligibility for clearance, of their employees, contractors, and citizens. It includes a statement by a responsible official of a foreign government that the original recipient of U.S. classified military information possesses the requisite security clearance and is approved by his or her government for access to information of the security classification involved on behalf of the foreign government and that the recipient will comply with any security requirements specified by the United States. In the case of industrial facilities, the security assurance should include a statement concerning the level of storage capability.

E2.1.15. Sensitive Compartmented Information. Information and material that requires special controls for restricted handling within compartmented intelligence systems and for which compartmentation is established.

E2.1.16. Strategic War Plan. A plan for the overall conduct of a war.

E3. ENCLOSURE 3

NDP-1 DISCLOSURE CRITERIA, CONDITIONS, AND LIMITATIONS

E3.1.1. Disclosure Criteria. Disclosures of classified military information in Categories 1 through 8 defined in item E2.1.2. of enclosure 2 may be made only when all of the criteria listed in subparagraph E3.1.1.1. through E3.1.1.5., below, are satisfied. Disclosures in Category 8 also must be in compliance with DoD Directive C-5230.23 (reference (d)).

E3.1.1.1. Disclosure is consistent with U.S. foreign policy and national security objectives concerning the proposed recipient foreign government. For example:

E3.1.1.1.1. The recipient government cooperates with the United States in pursuance of military and political objectives that are compatible with those of the United States.

E3.1.1.1.2. A specific U.S. national purpose, diplomatic or military, will be served.

E3.1.1.1.3. The information will be used in support of mutual defense and security objectives.

E3.1.1.2. Disclosure is consistent with U.S. military and security objectives. For example:

E3.1.1.2.1. Disclosures of advanced technology, if compromised, will not constitute an unreasonable risk to the U.S. position in military technology and operational capabilities, regardless of the intended recipient.

E3.1.1.2.2. 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.

E3.1.1.3. The foreign recipient of the information will afford it substantially the same degree of security protection given to it by the United States. (The intent of a foreign government to protect U.S. classified military information is established in part by the negotiation of a General Security of Information Agreement or other similar security arrangement. A foreign government's capability to protect U.S. classified military information normally is determined by the evaluation of embassy security assessments, Central Intelligence Agency risk assessments, National Military Information Disclosure Policy Committee (NDPC) Security Survey Reports, and/or historical precedence.)

E3.1.1.4. Disclosures will result in benefits to the United States at least equivalent to the value of the information disclosed. For example:

E3.1.1.4.1. The United States obtains information from the recipient nation on a quid pro quo basis.

E3.1.1.4.2. The exchange of military information or participation in a cooperative project will be advantageous to the United States from a technical or other military viewpoint.

E3.1.1.4.3. 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.

E3.1.1.5. The disclosure is limited to information necessary to the purpose for which disclosure is made. For example, if the purpose of the disclosure is the sale of military equipment, information on operation, maintenance, and training would be released. Research and development data, or production know-how, must be withheld.

E3.1.2. Disclosure Conditions. After a decision is made to disclose classified military information to a foreign government or international organization, based on the criteria listed in subparagraphs E3.1.1.1. through E3.1.1.5. of this enclosure, above, or an exception to policy, release of the classified military information will be contingent upon agreement by the recipient foreign government that the listed minimal conditions in subparagraphs E3.1.2.1. through E3.1.2.8., below, will be met. The conditions normally are satisfied by the provisions of existing General Security of Information Agreements. When a General Security of Information Agreement does not exist, the conditions may be included in a program-specific agreement, government contract, or similar arrangement.

E3.1.2.1. The information or acknowledgment of its possession will not be revealed to a third-country government, organization, or person, except with the prior written permission of the originating U.S. Department Agency.

E3.1.2.2. The information will be afforded substantially the same degree of security protection afforded to it by the United States.

E3.1.2.3. The information will be used only for designated military purposes, or other specified purposes.

E3.1.2.4. The recipient will report promptly and fully to U.S. authorities any known or suspected compromise of U.S. classified military information released to it.

E3.1.2.5. All individuals and facilities that will have access to the classified military information and materiel will have security clearances granted by their

government at a level equal to that of the classified information involved and an official need-to-know.

E3.1.2.6. The information will be transferred through government-to-government channels.

E3.1.2.7. Security experts of each government will be permitted to visit the other government, when mutually convenient, to review and discuss each other's policies and practices for protecting classified information.

E3.1.2.8. The recipient of the information agrees to abide by or meet U.S.-specified special terms and conditions for the release of U.S. information or materiel.

### E3.1.3. Disclosure Limitations

E3.1.3.1. General Limitations. Nothing in this Directive shall be construed so as to allow the disclosure of the following types of information:

E3.1.3.1.1. Prohibited by Law or Agreement. Classified information, the disclosure of which is prohibited by Federal law or by any international agreement to which the United States is a party.

E3.1.3.1.2. Naval Nuclear Information. Any naval nuclear propulsion information, classified or unclassified, except under an agreement negotiated pursuant to the Atomic Energy Act of 1954, as amended (reference (k)).

E3.1.3.1.3. Proprietary Information. Classified or unclassified proprietary information, the rights to which are owned by private firms or citizens (i.e., patents, copyrights, or trade secrets) without the owner's consent, unless such disclosure is authorized by relevant legislation, and then release will be subject to such legislation.

E3.1.3.1.4. National Intelligence. National Intelligence or interdepartmental intelligence produced within the National Foreign Intelligence Board (NFIB) structure. Such intelligence cannot be disclosed without authorization of the DCI in accordance with applicable policies.

E3.1.3.1.5. National Security Telecommunications and Information Systems Security Information. The National Security Telecommunications and Information Systems Security Committee is authorized by its terms of reference to make disclosures of classified military telecommunications and information systems security equipment and information without reference to the NDPC.

E3.1.3.1.6. Counterintelligence. Operational information related to counterintelligence activities and disclosures related thereto.

E3.1.3.1.7. Atomic Information. Such disclosures are made in accordance with the Atomic Energy Act of 1954, as amended (reference (k)).

E3.1.3.1.8. Strategic Planning and Guidance. Only the Secretary of Defense or the Deputy Secretary of Defense may authorize the disclosure of plans, concepts, or other information about strategic war plans. Requests for such disclosure shall be submitted through the Chairman of the Joint Chiefs of Staff.

E3.1.3.2. Specifically Prohibited Disclosures. The following types of classified information are specifically prohibited from disclosure:

E3.1.3.2.1. Classified information officially obtained from a foreign government, except when the information has been conveyed by the government with express written consent to its further disclosure.

E3.1.3.2.2. Combined information without prior agreement of all parties.

E3.1.3.2.3. Joint information without prior agreement of all Departments or Agencies having control or jurisdiction.

E3.1.3.2.4. Information originated by or for another Department or Agency, unless that Department or Agency consents to the disclosure.

E3.1.3.2.5. Intelligence information described in section I, subparagraph 5.c.(2) and section II, subparagraph 5.b.(7) of NDP-1 (reference (c)).

E4. ENCLOSURE 4

THE DDL

The following DDL format should be used by the DoD Components: (While all elements identified should be provided in the general order shown, information should be presented in the clearest and easiest-to-use manner. For example, the usefulness of the DDL for complex systems will be enhanced if items 5 and 6 are broken out by major subsystems and software and disclosures are discussed separately.)

TITLE:

DATE:

E4.1.1. CLASSIFICATION: Identify highest classification of information to be disclosed.

E4.1.2. DISCLOSURE METHODS: E.g., oral, visual, or documentary.

E4.1.3. CATEGORIES PERMITTED: Specify National Disclosure Policy categories to be disclosed.

E4.1.4. SCOPE: Specify who is authorized to release material or information, and to whom disclosure is authorized.

E4.1.5. AUTHORIZED FOR RELEASE AND/OR DISCLOSURE: Describe materiel and/or information that can be released or disclosed.

E4.1.6. NOT AUTHORIZED FOR RELEASE AND/OR DISCLOSURE: Describe materiel and/or information that cannot be released or disclosed. (In addition to providing specific descriptions of releasable and restricted materiel and information, items 5 and 6 will also specify any conditions or limitations to be imposed; e.g., time-phasing of release, allowable forms for software, identification of items releasable only as finished, tested assemblies, etc.)

E4.1.7. PROCEDURES: Specify review and release procedures, special security procedures, or protective measures to be imposed.

E4.1.8. REDELEGATION: Specify the extent of redelegation of authority (if any) permitted to subordinate activities.

E5. ENCLOSURE 5

REQUESTS FOR EXCEPTION TO POLICY

Requests for an exception to policy shall contain the following elements of information:

E5.1.1. A concise statement of the action proposed. Include security classification and categories of U.S. classified military information to be disclosed. (For example: "The OUSD(A) member, National Disclosure Policy Committee (NDPC), requests an exception to the National Disclosure Policy to permit the disclosure of SECRET Category 3 (Applied Research and Development Information and Materiel) information to the Government of \_\_\_\_\_ in support of the negotiation of a Data Exchange Agreement pertaining to surface-to-air missiles.")

E5.1.2. A precise statement of why an exception to policy is required. For example: An exception is required because:

E5.1.2.1. The level of classified information involved exceeds the classification level delegated in Annex A of NDP-1; or

E5.1.2.2. The proposed action is not in consonance with policy currently established in Annex B or C of NDP-1; or

E5.1.2.3. Certain (identify which) of the disclosure criteria or conditions listed in section II. of NDP-1 are not fully met; or

E5.1.2.4. Any or all of the above in combination.

E5.1.3. An assessment of how each of the disclosure criteria and conditions in section II. of NDP-1 shall be met:

E5.1.3.1. "Disclosure is consistent with the foreign policy of the United States toward the Government of \_\_\_\_\_." (A further detailed discussion shall be included to substantiate this statement. Reference shall be made to Presidential, National Security Council, or other high-level policy decisions to support the justification provided. A simple statement such as "the recipient cooperates with the United States in pursuance of military and political objectives" is not sufficient.)

E5.1.3.2. "The military security of the United States permits disclosure." (If equipment or technology is involved, there must be a discussion on the result of a compromise on U.S. operational capability or the U.S. position in military technology. This discussion shall include an analysis of the state of the art regarding the technology involved, the susceptibility of the item to reverse engineering, the capability of the

foreign recipient to reverse engineer the item, the foreign availability of the technology or equipment involved, and other governments to whom similar equipment or technology has been released.)

E5.1.3.3. "The foreign recipient will afford the information substantially the same degree of security protection given to it by the United States." (If there has been an NDPC Security Survey for the proposed recipient, the conclusion reached therein shall be discussed. In the absence of an NDPC Security Survey, efforts shall be made to obtain, through intelligence channels, a counterintelligence risk assessment or security analysis of the foreign government's security capabilities. The mere statement that "classified information has been released previously to this government and there is no indication that such information has been compromised" is not sufficient.)

E5.1.3.4. "Disclosures will result in benefits to the United States at least equivalent to the value of the information disclosed." For example:

E5.1.3.4.1. The United States obtains information from the proposed recipient on a quid-pro-quo basis, describe the information and the value to the United States;

E5.1.3.4.2. Explain how the exchange of military information for participation in a cooperative project will be advantageous to the United States from a technical or military capability viewpoint;

E5.1.3.4.3. If the development or maintenance of a high degree of military strength and effectiveness on the part of the recipient government will be advantageous to the United States, explain how.

E5.1.3.5. "The disclosure is limited to information necessary to the purpose for which disclosure is made." (For example, if the purpose of the request is for the sale of equipment only, it shall be indicated clearly that research and development data or production know-how is not to be divulged or that documentation will be sanitized.)

E5.1.4. Any limitations placed on the proposed disclosure in terms of information to be disclosed, disclosure schedules, or other pertinent caveats that may affect NDPC approval or denial of the request. (If disclosures are to be phased or if certain information is not to be released, the phasing or non-releasable information shall be specified.)

E5.1.5. A statement that the requested exception is to be either a continuing exception, subject to annual review, or a one-time exception. (A continuing exception usually is associated with a long-term project, such as a co-production program or military sale when the United States will be obligated to provide life-cycle support. A one-time exception typically is used for a briefing or demonstration or short-term training.)



E5.1.6. The names and titles of U.S. officials accredited to the requesting foreign government or international organization with whom the proposed exception has been coordinated, as well as the views of the Theater Commander. (Sufficient time shall be allowed to obtain an opinion from U.S. Embassy personnel in-country and the responsible Theater Commander before submitting the request for approval. Many cases are delayed because a U.S. Embassy or Theater Commander opinion has not been obtained.)

E5.1.7. The opinion of other interested Departments or Agencies if joint Service or shared information is involved. (If the information or item of equipment is of shared or joint interest, such as an air-to-air missile used by two Services or containing technology of concern to another Service, the views of the other party will be included.)

E5.1.8. Any information not mentioned above that would assist the NDPC members, the Secretary of Defense, or the Deputy Secretary of Defense in evaluating the proposal.

E5.1.9. The name and telephone number of a knowledgeable individual within the requesting organization who can provide additional technical detail or clarification concerning the case at issue.

E5.1.10. The date a response is desired on the case. Ten full working days for NDPC case deliberations should be allowed. The suspense date (10 full working days) is computed starting from the first full working day after the date of the request.

E6. ENCLOSURE 6SECURITY CLASSIFICATION GUIDE FOR NATIONAL DISCLOSURE POLICY

<u>SUBJECT MATTER</u>	<u>CLASSIFICATION</u>	<u>REMARKS</u>
A. The Charts in Annex A of NDP-1 (reference (c)).	SECRET	
1. The association of a foreign country or international organization with one or more disclosure category entries quoted from the chart in Annex A of reference (c).	CONFIDENTIAL	
2. The association of one or more disclosure category entries in the charts in Annex A of reference (c) pertaining to two or more foreign countries or international organizations (that is, any comparison of the disclosure levels of two or more countries or international organizations).	SECRET	
B. The fact that a specific foreign country or international organization has agreed to afford U.S. classified military information the same degree of protection as afforded by the U.S. Government.	UNCLASSIFIED	Unless the mere existence of the governing security agreement is classified, in which case the same classification applies. This can be determined by reviewing Part B of the charts in Annex A of reference (c).
C. Disclosure authority as set forth in section II.4. of reference (c).	UNCLASSIFIED	
D. Disclosure criteria (and examples) set forth in section II.5.a. of reference (c) without reference to a specific case or country.	UNCLASSIFIED	
E. Disclosure criteria for military intelligence as set forth in section II.5.b. of NDP-1 (reference (c)) and DoD Directive C-5230.23 (reference (d)).	CONFIDENTIAL	Unless otherwise specified by the paragraph markings in section II.5.b.
F. Disclosure conditions for classified military information as set forth in section II.6. of reference (c).	UNCLASSIFIED	
G. NDPC organization and membership in section III. of reference (c).	UNCLASSIFIED	
H. NDPC procedures enumerated in section IV. of reference (c).	UNCLASSIFIED	Except for section IV.2.b., which is CONFIDENTIAL
I. Specific disclosure policy, in addition to that in the chart in Annex A of reference (c), relative to a specific country or international organization.	CONFIDENTIAL	Other classification levels will be recommended to the Chair of the NDPC when circumstances warrant.

<u>SUBJECT MATTER</u>	<u>CLASSIFICATION</u>	<u>REMARKS</u>
J. Specific disclosure policy for selected weapon systems, equipment, and technologies.	CONFIDENTIAL	Other classification levels will be recommended to the Chair of the NDPC when circumstances warrant.
K. Information revealing the security policies, procedures, methods, or practices of a foreign country or international organization for protecting classified military information compiled by a NDPC Security Survey Team.	CONFIDENTIAL	Other classification levels will be recommended to the Chair of the NDPC when circumstances warrant.
L. Assessments, including deficiencies or recommendations, compiled by an NDPC Security Survey Team that would not result in adverse effects of foreign relations if disclosed but that could result in damage to the national defense if disclosed. For example, the deficiency concerns an exploitable vulnerability that, if revealed, could cause direct or immediate jeopardy to the security of U.S. classified information.	CONFIDENTIAL	Other classification levels will be recommended to the Chair of the NDPC when circumstances warrant.
M. Deficiencies or recommendations compiled by the NDPC Security Team that could result in adverse effects on foreign relations if disclosed.	CONFIDENTIAL	Other classification levels will be recommended to the Chairman of the NDPC when circumstances warrant.
N. The above items shall be declassified on "ODAR."		