

## APPENDIX B

# REQUESTS FOR EXCEPTION TO NATIONAL DISCLOSURE POLICY

Requests for an exception to National Disclosure Policy (NDP) shall contain the following elements of information:

1. A concise statement of the action proposed. Include security classification and categories of U.S. Classified Military Information (CMI) to be disclosed. (For example: "The Office of the Under Secretary of Defense (Acquisition, Technology and Logistics) 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 Material) information to the Government of \_\_\_\_\_ in support of the negotiation of a Data Exchange Agreement pertaining to surface-to-air missiles.")
2. A precise statement of why an exception to policy is required. (For example: An exception is required because (a) the level of classified information involved exceeds the classification level delegated in Annex A of NDP-1; or (b) the proposed action is not in consonance with policy currently established in Annex B or C of NDP-1; or (c) certain (identify which) of the disclosure criteria or conditions listed in section II. of NDP-1 are not fully met; or (d) any or all of the above in combination.)
3. An assessment of how each of the disclosure criteria and conditions in Section II. of NDP-1 shall be met:
  - a. "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.)
  - b. "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.)

- c. "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. If the potential recipient government's capability is unknown, so state.)
  - d. "Disclosures will result in benefits to the United States at least equivalent to the value of the information disclosed." (For example: (1) if 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; (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; (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.)
  - e. "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.)
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 nonreleasable information shall be specified.)
  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 coproduction 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.)
  6. The names and titles and telephone numbers 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 the 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.)
  7. The opinion of other interested Departments or Agencies, if joint Services 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.)

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.

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.

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.