

Essays

The Winds of Change at the CIA

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INTRODUCTION

The greatest threat to our country's national security is the danger that we will not change our thinking to coincide with the changes in the world. International leadership in the next century will require different strengths than were necessary in the last half century. Economic and social assets will overshadow military might as the primary determinants of world influence. As our friends and allies become less intimidated by the fading Soviet military threat,¹ they become less willing to follow our lead. America's international influence in the future will be based largely on our economic strength and on our ability to create a social and political model for other nations to follow.

The implications for America's Intelligence Community are clear. Developments in the world around us coupled with increasing budgetary constraints at home will force the most sweeping changes in our intelligence system since the Central Intelligence Agency (CIA) was created by the National Security Act forty-four years ago.² The task of Congress and the President is to redefine the

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1. See, e.g., Michael Gordon, *A New Face for NATO: Military Must Change as the Threat Wanes*, N.Y. TIMES, July 8, 1990, at A1; R. Jeffrey Smith, *Pentagon Increases SDI Push; Public, Hill Support Eroding as Fear of Soviet Threat Fades*, WASH. POST, Feb. 18, 1990, at A1.

2. National Security Act of 1947, ch. 343, § 2, 63 Stat. 579 (codified as amended at 50 U.S.C. §§ 401-405 (1988)).

very mission of intelligence in the new world. Any suggested new roles must be carefully examined to ensure that they legitimately reflect the needs of the Intelligence Community and do not perpetuate unnecessary budget expenditures.

This Essay examines the role of the Intelligence Community and congressional oversight in light of the dramatic developments in the world. Part I identifies key issues that the Intelligence Community must address in order to maintain America's position in the world. Part II examines recent improvements in congressional oversight. Finally, Part III offers legislative proposals designed to cope with future challenges to the Intelligence Community.

I. THE CHALLENGES

As Robert Gates takes the helm as Director of Central Intelligence (DCI), he must perform major surgery on the CIA and the entire Intelligence Community. For the past few decades, the principal purpose of American intelligence has been to detect Soviet plans and actions, to deter Soviet aggression when possible, and to defeat the Soviets when they moved against our interests anywhere in the world. This meant that a major part of our resources was used to monitor and analyze Soviet and Eastern bloc military activities and to penetrate the highly concentrated civilian power structure in the Communist Party and the Soviet government. Developments in virtually every part of the world were viewed through the prism of Soviet-American competition. For example, Soviet economic projects in Third World nations were not treated as important targets in themselves, but were considered only in relation to the impact that they might have on the balance of power between the United States and the Soviet Union. Economic changes were viewed not as the principal determinants of power and influence in the world, but as factors that might have some influence upon military and political strength.

The United States now confronts a world in which economic power in and of itself is far more important in determining world leadership. High quality economic analysis is vital as policymakers struggle to rebuild our economic strength at home and to determine the best market opportunities abroad. In addition, the major threat to world stability now comes not from the decisions of a small group of rulers in the Kremlin but from the danger of racial, ethnic, or nationalist strife brought about by unstable economic and social conditions.³

3. See generally James Brooke, *As Centralized Rule Wanes, Ethnic Tension Rises Anew in Soviet Georgia*, N.Y. TIMES, Oct. 2, 1991, at A3; George J. Church, *Into the Void; Suddenly the Old Soviet Union Is Gone. Now New Leaders Are Improvising on a Grand Scale to Shape a New Nation—or Nations—from the Chaos*, TIME, Sept. 1, 1991, at 26; Don Oberdorfer, *Soviet "Collapse" Shifts the Axis of Global Politics*, WASH. POST, Sept. 1, 1991, at A35; John Tagliabue, *Old Tribal Rivalries in Eastern Europe Pose Threat of Infection*, N.Y. TIMES, Oct. 13, 1991, § 4, at 2. For a thoughtful discussion of the new challenges to the Intelligence Community in the post-Cold War era, see Russell J. Bruemmer, *Intelligence Community Reorganization: Declining the Invitation to Struggle*, 101 YALE L.J. 867 (1992).

In many ways, the dangers posed to world peace in the last part of this decade resemble the threats of the 1930's more than they resemble the threats of the 1980's. Developments in Yugoslavia provide clear early warning signals.⁴ While it is highly unlikely that the Russian Republic will ever again have a threatening leader who calls himself a Communist, it is not impossible that hunger and disorder in Moscow could lead to the kind of collapse that brought Hitler to power in Germany in the 1930's. Any dictator who controls weapons of mass destruction is extremely dangerous, whether he marches under the banner of communism, nationalism, or racism. American intelligence, long aimed at penetrating leadership and command groups, must now develop a greater ability to predict popular attitudes and actions. It requires a different kind of ability to read the mood of the people on the streets of Moscow, Baghdad, or Panama City than to interpret the way in which a military commander fits into a preconceived order of battle. In many ways, the complex world of the late 1990's will be more difficult to understand than the world of the Cold War period. The simple lens of superpower confrontation can no longer be used to view the world around us.

In addition, American leadership will rely more upon collective action, and intelligence must therefore provide policymakers with more information about the tools of persuasion. As strength and influence are increasingly defined in economic and social terms, the United States will no longer have the dominance to take purely unilateral action that it had when power was defined in military terms. Clearly, there is no time to waste in reordering our priorities to meet the new challenge. With most of the resources of our current multibillion-dollar intelligence budget devoted directly or indirectly to the Soviet threat, changes must be made. In addition, it should be possible to achieve major budgetary savings that can be channeled constructively into other programs. Neither the executive branch, which manages the Intelligence Community, nor Congress, which authorizes and funds its programs, can by itself bring about the sweeping changes that are needed. The two branches must work together as never before. The new DCI may play the key role in bringing them together in a constructive way.

II. RECENT CONGRESSIONAL ACTIVITIES

The process of change has already begun. For well over a year, the Senate Select Committee on Intelligence (SSCI) has been conducting a study of the structure of the Intelligence Community through a series of hearings and personal interviews with a wide cross section of present and former senior government officials, intelligence experts, and historians. The SSCI has had the

4. See generally David Binder, *Ethnic Conflict in Yugoslavia Tearing Apart Its Army, Too*, N.Y. TIMES, Oct. 1, 1991, at A1; John M. Goshko, *Yugoslavia Is Puzzling Problem For U.S., Allies; Rival Factions Largely Ignore Appeals to End a Conflict Rooted in Ethnic Hatreds*, WASH. POST, Sept. 22, 1991, at A31.

dual task of improving the oversight process and looking ahead to determine new challenges for the Intelligence Community.

Over the past few years, Congress has moved to improve the oversight process. The SSCI created its own independent auditing unit, which for the first time allows Congress to determine if funds for the most secret projects are being spent appropriately.⁵ The House Permanent Select Committee on Intelligence has followed suit. As a result, Congress no longer depends upon the CIA to police itself. Vigorous oversight by the committees has resulted in the cancellation of some programs where problems were uncovered.⁶ In addition, these actions have served as a deterrent in other areas.

In 1990, Congress established an independent statutory Inspector General at the CIA whose appointment is subject to Senate confirmation.⁷ Before passage of this statute, the Inspector General was an employee of the Director of the CIA who was selected by the Director and who reported to him. Now, the Inspector General is appointed by the President and must be confirmed by the Senate. By law, the Inspector General can either initiate investigations himself or at the request of the Director. If there is a disagreement between the Inspector General and the Director about the subject or scope of an investigation, the Inspector General has a responsibility to report the disagreement to the intelligence committees. This ensures that the Director and others in the CIA will not be able to cover up any irregularity. In addition, annual reports of all activities of the Inspector General must be furnished to the committees.

In 1991, Congress passed an Intelligence Authorization Bill that contained historic reforms in the covert action oversight process, reflecting lessons learned from the Iran-Contra affair.⁸ The new statute tightens the definitions of "covert actions" and "timely notice." Presidents traditionally assert that any effort to set up a rigid time requirement on notice of covert actions is an invasion by Congress of the President's constitutional prerogatives as Commander-in-Chief. President Bush, therefore, strongly objected to a proposal to define "timely notice" to mean "within 48 hours" and made it clear that he would veto any bill containing such a provision. He did, however, commit himself in a letter to the committee to conduct his own actions under the statute in a manner consistent with the term "timely notice," meaning "within a few days," except in extraordinary circumstances that required him to assert his constitutional authority.⁹ The committee included the President's letter in its report accompa-

5. See FRANK SMIST, CONGRESS OVERSEES THE UNITED STATES INTELLIGENCE COMMUNITY, 1947-1989, at 269 (1990); REPORT OF THE SELECT COMM. ON INTELLIGENCE, UNITED STATES SENATE, JAN. 1, 1987 TO DEC. 31, 1988, S. REP. NO. 219, 101st Cong., 1st Sess. 18-19 (1989).

6. S. REP. NO. 219, *supra* note 5.

7. 50 U.S.C. § 403q (1988).

8. Pub. L. No. 102-88, 105 Stat. 429 (1991) (to be codified at 50 U.S.C. § 413).

9. Letter from George Bush, President of the United States, to Dave McCurdy, Chairman of the House Select Comm. on Intelligence (Oct. 30, 1989), reprinted in INTELLIGENCE AUTHORIZATION ACT, FISCAL YEAR 1991, CONFERENCE REPORT, H.R. REP. NO. 166, 102d Cong., 1st Sess. 27 (1991). The author, Chairman of the SSCI, and Representative Dave McCurdy, Chairman of the HPSCI, received similar letters

nying the Intelligence Authorization Act for 1991 and restated Congress' view that the statute meant "within a few days" and that there was no constitutional basis to disregard the statute.¹⁰ Congress did, however, reaffirm its statutory inability to alter the powers conferred by the Constitution upon the President.¹¹

The Authorization Act outlaws retroactive Presidential findings and requires third-party involvement in covert actions to be revealed to congressional oversight committees.¹² In the past, some covert activities have contributed to the collapse of Soviet communism by increasing the cost of Soviet aggression. For example, the efforts to make the Soviets pay a high price for their invasion of Afghanistan were extremely successful, in large part due to the unified support of the American people. On the other hand, other covert actions failed, notably when the actions were not consistent with publicly stated principles of American foreign policy or when there was an attempt to act secretly without true public consensus on the issue. For example, there was no public consensus regarding aid to the Contras in Nicaragua. In fact, divisions were so deep in this country that Congress reversed its direction on Contra aid ten times in the course of five years.¹³ Each time aid was resumed, different conditions were attached to it. These frequent reversals not only caused policy confusion, but also made efficient use of resources under the program almost impossible.¹⁴ Additionally, they helped create temptations for partisans to continue programs secretly and illegally during periods when they were not authorized.¹⁵

A covert action's chances for success seem largely related to its degree of public support. This lesson from the past ten years, coupled with the changes in the world situation and the end of superpower confrontation, make it much less likely that large-scale paramilitary covert action will be used in the decade ahead. Major American interventions are much more likely to be overt foreign policy and military initiatives like those in Panama and Kuwait.

from the President.

10. *Id.*

11. H.R. REP. NO. 166, *supra* note 9, at 28.

12. 50 U.S.C. § 413(a), (b) (1991).

13. See Intelligence Authorization Act, Fiscal Year 1989, Pub. L. No. 100-453, 102 Stat. 1904 (1988); Assistance to Central America, Pub. L. No. 100-276, 102 Stat. 62 (1988); Continuing Appropriations, Fiscal Year 1988, Pub. L. No. 100-202, 101 Stat. 1329 (1987); Intelligence Authorization Act, Fiscal Year 1988, Pub. L. No. 100-178, 101 Stat. 1009 (1987); Continuing Appropriations, Fiscal Year 1988, Pub. L. No. 100-120, 101 Stat. 789 (1987); National Defense Authorization Act for Fiscal Year 1987, Pub. L. No. 99-661, 100 Stat. 3816 (1986); Continuing Appropriations, Fiscal Year 1987, Pub. L. No. 99-591, 100 Stat. 3341 (1986); Intelligence Authorization Act for Fiscal Year 1987, Pub. L. No. 99-569, 100 Stat. 3190 (1986); Intelligence Authorization Act for Fiscal Year 1986, Pub. L. No. 99-169, 99 Stat. 1002 (1985); Supplemental Appropriations Act 1985, Pub. L. No. 99-88, 99 Stat. 293 (1985).

14. See, e.g., PRELIMINARY INQUIRY INTO THE SALE OF ARMS TO IRAN AND POSSIBLE DIVERSION OF FUNDS TO THE NICARAGUAN RESISTANCE, S. REP. NO. 7, 100th Cong., 1st Sess. 39 (1987).

15. *Id.* This diversion also contributed to a less than decisive result in Nicaragua, where the government is officially under the control of President Violeta Barrios de Chamorro while instruments of power like the army and police remain under the control of her Sandinista rivals. See Shirley Christian, *In Managua, Angry Reminder of Sandinista Power*, N.Y. TIMES, Nov. 11, 1991, at A6; see also S. REP. NO. 7, *supra* note 14, at 39.

Reforms in the oversight process have been difficult because congressional oversight of intelligence is an issue of major constitutional significance. The activities of the oversight committees, created in response to various CIA and Federal Bureau of Investigation (FBI) abuses during the early 1970's,¹⁶ are inherently controversial; the mere existence of the committees in some ways circumscribes the power of the Presidency. The committees themselves, acting responsibly, must balance appropriate congressional assertion against the infringement of executive power. Even in an institutionally contentious context, it is important to attain bipartisan cooperation toward an effective national intelligence effort that is consistent with the values and requirements of a democratic society.

III. PROPOSAL FOR RESTRUCTURING THE INTELLIGENCE COMMUNITY

Changes in the oversight process and the rules governing covert action will improve the future effectiveness of the Intelligence Community. They currently work to correct past mistakes rather than to effect the fundamental transformation of the Intelligence Community that is now necessary. The broad outlines of the new Intelligence Community, reflecting a reordering of priorities, are beginning to take shape.

A. *Integration of Intelligence*

There must be a closer integration of the intelligence functions of the Departments of Defense and State with those of the CIA. For budgetary reasons, we can no longer afford to fund separate and often competitive intelligence empires. Some have suggested abolishing the CIA and placing all intelligence functions under the State Department.¹⁷ Such a move would be unwise for several reasons. First, it would merge intelligence collection and intelligence analysis functions, thereby endangering the arm's-length relationship between those who must provide information and those charged with making policy. Second, the State Department alone cannot undertake all intelligence functions, since some intelligence collection methods are inappropriate for diplomatic missions. Finally, the State Department is not organized to put intelligence into a form useful to the military in times of conflict.

While it would not be advisable to make the CIA part of the State Department, certain State Department assets are more useful to the intelligence process than they were before. The State Department's overt intelligence gathering can operate more effectively in previously closed societies, like the Soviet Union, that are now much more open. Some of the analysis previously done at the

16. See SELECT COMM. TO STUDY GOVERNMENTAL OPERATIONS WITH RESPECT TO INTELLIGENCE ACTIVITIES, FINAL REPORT, S. REP. NO. 755, 94th Cong., 2d Sess. (1976).

17. S. 236, 102d Cong., 1st Sess. §§ 301-303 (1991) (introduced by Sen. Moynihan).

CIA, using secret sources, can be done at the State Department with open-source information. State Department political officers stationed on the scene may actually be better than Langley-based CIA analysts who have limited on-site experience.

In addition to responding to budgetary pressures, better integration of military and civilian intelligence will improve the quality of intelligence and enhance its usefulness in times of conflict. For example, joint exercises involving civilian intelligence officers and uniformed military commanders that simulate wartime conditions, which have never been held in the past, would be a welcome practice. It makes sense to fill some key CIA posts—perhaps the position of Deputy Director of Central Intelligence—with military officers and to fill key positions at the Pentagon and the Defense Intelligence Agency with civilian CIA employees. In that way, each group will become more sensitive to the needs of the other. During the recent Persian Gulf conflict, civilian officers were not fully integrated into General Schwarzkopf's command.¹⁸ General Schwarzkopf noted that during the Gulf War, the intelligence agencies in Washington had a system of bomb damage assessment that confused military commanders because the assessments failed to indicate whether a potentially damaged facility was still militarily functional.¹⁹ A more effectively integrated Intelligence Community might have provided a useful remedy for this deficiency.

While it is generally agreed that in this era of diminishing resources for defense and intelligence we must integrate and streamline organizations to improve budgetary efficiency, the task will not be easy. Unfortunately, it is precisely during periods of belt tightening that organizations most fiercely defend themselves and most doggedly rationalize the need for continued growth. Above all else, bureaucracy hates change. When the Goldwater-Nichols Department of Defense Reorganization Act of 1986 was passed,²⁰ it was anathema to every branch of the armed services. While Goldwater-Nichols did not specifically address intelligence, it did give greater authority to theater commanders-in-chiefs (CINC's) around the world²¹ as opposed to the chiefs of the individual branches—Army, Navy, Air Force, and Marines. In doing so, it also gave greater importance to CINC's as consumers of intelligence. This has led the Department of Defense and the whole Intelligence Community to reassess how intelligence support for these commanders is organized and carried out. As a consequence, "Joint Intelligence Centers"²² are being established at each theater command to serve as conduits for intelligence support funneled

18. See, e.g., *Operation Desert Shield/Desert Storm: Hearings Before the Senate Comm. on Armed Services*, 102d Cong., 1st Sess. 341-42 (1991) [hereinafter *Schwarzkopf Testimony*].

19. *Id.*

20. Pub. L. No. 99-433, 100 Stat. 992 (1986) (codified in scattered sections of 10 U.S.C.).

21. *Id.* §§ 161-166.

22. See S. REP. NO. 117, 102d Cong., 1st Sess. 7 (1991).

to the CINC's from both national and tactical intelligence gatherers. For the first time, theater commanders are given authority to conduct joint exercises during peacetime that integrate all civilian and military intelligence assets into the command structure, thereby ensuring that all elements will be prepared to work together in times of actual crisis. In short, the Goldwater-Nichols emphasis on "jointness" of command has already been carried over into the intelligence framework. The joint command structure established by Goldwater-Nichols contributed immeasurably, in my view, to our victory in the Gulf War. Intelligence should follow suit and organize its extraordinary capabilities to satisfy the requirements of military commanders in the most effective way.

B. *Human Intelligence*

The second major feature of the new Intelligence Community will be its emphasis on human source intelligence. With a smaller American military force, largely based in the United States, earlier warning of the hostile intentions of potential adversaries will grow in importance. While satellite photographs and other technical data can reveal military movements before an attack, they cannot provide early warning of an enemy's intentions. Had the President known of Saddam Hussein's aims months—instead of only days—before Iraq's invasion of Kuwait, he could have considered other options, such as joint military maneuvers with Saudi Arabia, which might have avoided the war altogether. More effective human intelligence sources might have provided this information.

Human sources are also more effective intelligence gatherers in other areas of strategic importance. For example, they can penetrate increasingly important targets like terrorist organizations and international drug rings. In addition, they are the best means of collecting economic intelligence. Satellite photographs cannot provide much information about what a small terrorist cell is planning or about the significance of certain commercial technologies. While electronic surveillance can be helpful in certain situations, terrorists and drug dealers, among others, are becoming increasingly sophisticated about communications. In all of these cases, there is simply no real substitute for a good human source who has penetrated the inner circle. Perhaps of greatest concern, human source intelligence is much less expensive than costly, high-technology, collection equipment. A major increase in human collection capabilities could be achieved while substantially reducing total intelligence spending.

To improve human intelligence, it is necessary to define national security in a broader sense. The quality of an intelligence agent or analyst depends largely upon the quality of his or her education and training. The development of the National Security Education Act of 1991 by the SSCI recognizes the

contribution of improved education to national security.²³ The Act provides scholarships for American undergraduates to study overseas; grants to colleges and universities to strengthen curricula in foreign languages, area studies, and international studies; and graduate fellowships for students interested in government service in areas where expertise is needed.²⁴ This year, \$35 million were provided for the scholarships and grants, and another \$150 million have been placed in a fund to endow the program permanently.²⁵ While there is no government employment obligation for undergraduates who spend less than a calendar year abroad,²⁶ many of these students will undoubtedly become sufficiently interested in regional studies to pursue graduate programs. If a job is offered, a graduate fellowship recipient would be required to accept employment with the Intelligence Community, State Department, Commerce Department, or some other agency, on the basis of three years of service for one year of education.²⁷ Even for those undergraduates who do not ultimately enter government service, the nation will be benefitted by having more leaders in the private sector who have an international outlook.

C. *Economic Intelligence*

The new Intelligence Community will place an increased emphasis on economic intelligence. Though defining the appropriate limits of economic intelligence will not be an easy task, some fruitful areas of investigation are obvious. For example, deterring the theft of industrial secrets of private American companies is absolutely necessary.²⁸ Counterintelligence efforts in this direction are already underway, but they must be intensified, and clearer warnings about the threat must be given to the private sector. We must also consider whether our current criminal code provisions are adequate to deter economic espionage. Current laws focus primarily on the theft of classified information. The classification process deals almost exclusively with military secrets and with work done under government control, as opposed to purely private commercial ventures.

We must consider how to deal with efforts by foreign intelligence services to obtain unfairly advance notice of contract or bidding opportunities in Third World countries, which give their companies an advantage over ours. In addition, we should obtain information about the economic negotiation strate-

23. S. 1359, 102d Cong., 1st Sess. § 701 (1991).

24. *Id.*

25. See S. REP. NO. 117, *supra* note 22, at 15.

26. S. 1359, *supra* note 23, § 701.

27. *Id.*

28. See, e.g., William M. Carley, *As Cold War Fades, Some Nations' Spies Seek Industrial Secrets*, WALL ST. J., June 17, 1991, at A1; Eduardo Lachica, *Businesses Try to Get Smart With Ex-Spies*, WALL ST. J., Aug. 8, 1991, at B1; James M. Lamont, *As Red Menace Cools, Spies Go Corporate*, WALL ST. J., Apr. 22, 1991, at A12; Micheal Wines, *French Said to Spy on U.S. Computer Companies*, N.Y. TIMES, Nov. 18, 1990, at 4.

gies of other countries and foreign competitors where possible. Just as in the past when it was important to understand fully the military strategies and goals of potential opponents, in the economic arena we need to know at least as much about the game plans of our adversaries as they know about ours. We should also use our knowledge of the economic needs and the political influence of economic power structures in other countries to gain support for our objectives in multinational negotiations. In sum, it is appropriate to use our intelligence assets to level the playing field and to allow American companies an equal chance to compete.

Whether U.S. intelligence assets should be used to obtain secrets from private foreign companies poses a more difficult question.²⁹ Operating without parameters in this area could easily lead to violations of basic American values and principles. Full-scale, unrestrained efforts to use the CIA to steal economic secrets of private companies in other countries would be inconsistent with the nature of the free enterprise system. For example, if an automotive secret were stolen in retaliation for similar action by a foreign power, with whom would the information be shared—General Motors, Ford, or Chrysler? Nevertheless, we must ask ourselves what we should do if others are stealing this information from us. How can we retaliate in a way that will halt their continuing economic aggression? If all other efforts have failed to halt the aggressive espionage of a foreign government, perhaps as a last resort, we could retaliate by sharing information obtained with all American producers in a public forum. Answers to these questions will require careful reflection and strategies developed jointly with the Commerce, Treasury, and other departments. To date, no clear policy guidance is available to the Intelligence Community.

We also need a mechanism to identify those exclusively American technologies that should not be allowed to fall into foreign hands. Often, a foreign government or company does not steal our technology outright; it simply buys a controlling interest in an American company on the open market. We must develop tools to prevent such foreign acquisitions when there are strong national security reasons for doing so. While there are laws and regulations in place that restrain the foreign ownership of U.S. firms doing classified work for the government, there are many technologies that are not themselves classified, yet could have significant national security implications. High-speed computer technology, for example, is not classified, but it has myriad applications in the design of weapons and weapon-delivery systems. While the President has the statutory authority to delay acquisitions of U.S. firms by foreign interests where national security considerations are involved, this authority is rarely used. In fact, the government has a difficult time evaluating the acquisitions that are taking place in terms of their significance to national security. There is no

29. See, e.g., *Should U.S. Agencies Spy on Foreign Corporations?*, WALL ST. J., June 17, 1991, at A5; Micheal Wines, *Evolution in Europe: Security Agency Debates New Role: Economic Spying*, N.Y. TIMES, June 8, 1990, at A1.

central location in the government where this monitoring takes place. Indeed, there are no practical tools in place, such as finance mechanisms, for the President's immediate use to assure that firms up for sale are not acquired by foreign corporations.

D. *Integrity of Analysis*

The analytic function of the Intelligence Community must be improved. The quality of decisions made by policymakers in preparing America for the next century will be significantly affected by the quality of intelligence analysis. Much more use needs to be made of open sources. We need to encourage increased analysis from political and commercial officers in our embassies around the world. The Community should stop trying to reach cautious, consensus-oriented intelligence estimates, described by General Schwarzkopf as "unhelpful because [they are] so caveated."³⁰ Instead, to assure crisp, usable, and predictable intelligence, and to protect the integrity of the intelligence process (against a tendency to politicize the estimates in order to tell policymakers what they want to hear), majority and minority views should be presented separately, along with the rationale behind each viewpoint.

The integrity of the analytical process is crucial. Billions of dollars spent on intelligence collection will be wasted if the analysis is not both objective and clear. If the aim is simply to tell policymakers what they want to hear, no data collection is necessary—an analyst with a typewriter will suffice. Analysts must avoid being risk averse. Avoiding blame by being vague and refusing to take a position may preserve a bureaucratic job, but it does not inform the policymaker. During the confirmation hearings on the nomination of Robert Gates to become Director of Central Intelligence, there was a thorough and highly unusual public criticism of the current methods of analyzing intelligence data.³¹ Mr. Gates himself conceded that there was a danger that analysts might consciously or unconsciously react to the perceived ideological biases of their supervisors.³² He made several suggestions for changing the current process to encourage risk taking, to make intelligence more crisp and prediction oriented, and to reflect more fully dissenting views. Establishing a process for separately presenting majority and minority views, much as in a Supreme Court decision, should help push analysts to state more clearly their individual views and to assume responsibility for them.

30. See *Schwarzkopf Testimony*, *supra* note 18.

31. See *Nomination Hearings: Divergent Portrait of Gates Presented by Witness*, 49 CONG. Q. 2901 (1991).

32. *Id.* at 2906.

E. *The Role of the Director of Central Intelligence*

The role of the Director of Central Intelligence should be seriously re-evaluated. Can the Director effectively wear two hats, serving both as head of the CIA and as head of the entire Intelligence Community at the same time? Can the DCI act effectively as a referee between competing agencies, especially if his own agency is one of the competitors? These are the kinds of concerns which prompted proposals for the creation of a new position, a Director of National Intelligence,³³ separate from the CIA, to head the Intelligence Community. While this proposal certainly should not be dismissed out of hand, it has its shortcomings. In Washington, a government official without employees of his or her own usually has no power. There is a very real possibility that if a new Director of National Intelligence were established, separate from the CIA, it would soon develop an expensive and redundant bureaucracy of its own.³⁴

The better alternative is not to eliminate the DCI's powers as head of the Intelligence Community, but to strengthen them. If there is to be more coordination among military, civilian, diplomatic, and commercial intelligence agencies, the DCI must be the true coordinator of the entire Intelligence Community, not just a figurehead. At the very least, the Director must have powers similar to those of the Director of the Office of Management and Budget when it comes to making budgetary allocations. The DCI also should be a participant in the appointment process when directors are chosen for other intelligence agencies like the Defense Intelligence Agency and the National Security Agency. Currently, these agencies are largely controlled by the Secretary of Defense, even though they are supposed to receive intelligence tasking from the DCI.

F. *Other Threats*

Stopping the proliferation of ballistic missiles, and of nuclear, biological, and chemical weapons, should be a major focus of the reconstituted Intelligence Community. While the intelligence agencies already credibly track the spread of these weapons, more effort is required, especially through the use of improved human sources. Regrettably, much of the intelligence already collected has not been fully used because policymakers have had other priorities. Due to superpower competition in the past, we often hesitated to act against countries whose help we needed against the Soviet bloc. The decline of the Cold War provides a great opportunity to make cooperation between the superpowers the centerpiece of a new world order. It is time for the United States to propose that the North Atlantic Treaty Organization (NATO) countries and Japan enter

33. S. 421, 102d Cong., 1st Sess. (1991); S. 175, 101st Cong., 1st Sess. (1989).

34. For a solid analysis of the DNI proposal, see Bruemmer, *supra* note 3, at 886-87.

into clear and enforceable agreements to act against their own companies found guilty of assisting other nations in the design and proliferation of nuclear, chemical, and biological weapons. In addition, sanctions should be used against nations found guilty of attempting to develop such weapons. NATO should then seek an agreement from the United Nations for a similar process. The almost unified sanctions taken against Iraq show that such concentrated action is possible when it comes to nuclear weapons programs.

There are obviously many more areas that deserve attention in redesigning the Intelligence Community. Some existing assets can be retargeted. Technologies used to track missiles, for example, could be helpful in gathering information to meet global environmental challenges. Satellites and other national technical systems could be used to monitor the loss of tropical rain forests. They might also assist in obtaining more accurate information on air quality in all parts of the world. These systems could also provide early warning of natural disasters and climate changes as well as warning of man-made environmental disasters like Chernobyl and the oil spills of the Gulf War. Because environmental problems know no national borders, it is time to enter into international agreements to allow our intelligence systems to be used to collect and share important environmental data.

CONCLUSION

There is no time to waste. The world has fundamentally changed, and the Intelligence Community must change with it. If it does not, the Intelligence Community will become an overly expensive and irrelevant dinosaur just when America most needs information and insight to meet challenges even tougher than those presented by the Cold War.

